

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

IN THE HOUSE

JUNE 26, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

JUNE 29, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JUNE 30, 1989

PRINTING REPORT.

JULY 6, 1989

SECOND READING, DO PASS AS AMENDED.

ON MOTION, TAKEN FROM ENGROSSING
AND REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

JULY 8, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON SECOND READING THIS DAY.

SECOND READING, DO PASS AS AMENDED.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 88; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JULY 10, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

JULY 11, 1989

FIRST READING.

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

JULY 11, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *56*
2 INTRODUCED BY *Emil J. Boyle, Smith, Wallin*
3 *Proble* *Mark Owens Rapp-Dunk*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS'
5 COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
6 COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
7 PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
8 SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
9 IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO
10 THE CURRENT EMPLOYER PAYROLL TAX, TO REDUCE THE UNFUNDED
11 LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND;
12 AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721,
13 39-71-1024, AND 39-71-2501 THROUGH 39-71-2504, MCA; AND
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE,
15 AND A RETROACTIVE APPLICABILITY DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 39-71-701, MCA, is amended to read:

19 "39-71-701. Compensation for temporary total
20 disability. (1) Subject to the limitation in 39-71-736, a
21 worker is eligible for temporary total disability benefits
22 when the worker suffers a total loss of wages as a result of
23 an injury and until the worker reaches maximum healing.

24 (2) The determination of temporary total disability
25 must be supported by a preponderance of medical evidence.

1 (3) Weekly compensation benefits for injury producing
2 temporary total disability shall be 66 2/3% of the wages
3 received at the time of the injury. The maximum weekly
4 compensation benefits shall may not exceed the state's
5 average weekly wage at the time of injury. Temporary total
6 disability benefits shall must be paid for the duration of
7 the worker's temporary disability. The weekly benefit amount
8 may not be adjusted for cost of living as provided in
9 39-71-702(5).

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

18 (5) Notwithstanding subsection (3), beginning July 1,
19 1987, through June 30, ~~1989~~ 1991, weekly compensation
20 benefits for temporary total disability may not exceed the
21 state's average weekly wage of \$299 established July 1,
22 1986."

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

24 39-71-702. Compensation for permanent total
25 disability. (1) If a worker is no longer temporarily totally

1 disabled and is unable to return to work due to injury, the
 2 worker is eligible for permanent total disability benefits.
 3 At an insurer's request, an evaluation of all options under
 4 39-71-1012 must be made before permanent total disability
 5 status is determined. Permanent total disability benefits
 6 must be paid for the duration of the worker's permanent
 7 total disability, subject to 39-71-710 and 39-71-1026.

8 (2) The determination of permanent total disability
 9 must be supported by a preponderance of medical evidence.

10 (3) Weekly compensation benefits for an injury
 11 resulting in permanent total disability shall be $66 \frac{2}{3}\%$ of
 12 the wages received at the time of the injury. The maximum
 13 weekly compensation benefits shall not exceed the state's
 14 average weekly wage at the time of injury.

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

23 (5) A worker's benefit amount must be adjusted for a
 24 cost-of-living increase on the next July 1 after 104 weeks
 25 of permanent total disability benefits have been paid and on

1 each succeeding July 1. A worker may not receive more than
 2 10 such adjustments. The adjustment must be the percentage
 3 increase, if any, in the state's average weekly wage as
 4 adopted by the department over the state's average weekly
 5 wage adopted for the previous year or 3%, whichever is less.

6 (6) Notwithstanding subsection (3), beginning July 1,
 7 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 8 compensation benefits for permanent total disability may not
 9 exceed the state's average weekly wage of \$299 established
 10 July 1, 1986."

11 **Section 3.** Section 39-71-703, MCA, is amended to read:

12 "39-71-703. Compensation for permanent partial
 13 disability -- impairment awards and wage supplements. (1)
 14 The benefits available for permanent partial disability are
 15 impairment awards and wage supplements. A worker who has
 16 reached maximum healing and is not eligible for permanent
 17 total disability benefits but who has a medically determined
 18 physical restriction as a result of a work-related injury
 19 may be eligible for an impairment award and wage supplement
 20 benefits as follows:

21 (a) The following procedure must be followed for an
 22 impairment award:

23 (i) Each percentage point of impairment is compensated
 24 in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages
 25 received at the time of the injury, subject to a maximum

1 compensation rate of one-half of the state's average weekly
2 wage at the time of injury.

3 (ii) When a worker reaches maximum healing, an
4 impairment rating is rendered by one or more physicians as
5 provided for in 39-71-711. Impairment benefits are payable
6 beginning the date of maximum healing.

7 (iii) An impairment award may be paid biweekly or in a
8 lump sum, at the discretion of the worker. Lump sums paid
9 for impairments are not subject to the requirements set
10 forth in 39-71-741, except that lump-sum conversions for
11 benefits not accrued may be reduced to present value at the
12 rate set forth by the department in 39-71-741(5).

13 (iv) If a worker becomes eligible for permanent total
14 disability benefits, the insurer may recover any lump-sum
15 advance paid to a claimant for impairment, as set forth in
16 39-71-741(5). Such right of recovery does not apply to
17 lump-sum benefits paid for the period prior to claimant's
18 eligibility for permanent total disability benefits.

19 (v) If a worker suffers additional injury, an
20 impairment award payable for the additional injury must be
21 reduced by the amount of a previous award paid for
22 impairment to the same site on the body.

23 (b) The following procedure must be followed for a
24 wage supplement:

25 (i) A worker must be compensated in weekly benefits

1 equal to 66 2/3% of the difference between the worker's
2 actual wages received at the time of the injury and the
3 wages the worker is qualified to earn in the worker's job
4 pool, subject to a maximum compensation rate of one-half the
5 state's average weekly wage at the time of injury.

6 (ii) Eligibility for wage supplement benefits begins at
7 maximum healing and terminates at the expiration of 500
8 weeks minus the number of weeks for which a worker's
9 impairment award is payable, subject to 39-71-710. A
10 worker's failure to sustain a wage loss compensable under
11 subsection (1)(b)(i) does not extend the period of
12 eligibility. However, if a worker becomes eligible for
13 temporary total disability, permanent total disability, or
14 total rehabilitation benefits after reaching maximum
15 healing, the eligibility period for wage supplement benefits
16 is extended by any period for which a worker is compensated
17 by those benefits after reaching maximum healing.

18 (2) The determination of permanent partial disability
19 must be supported by a preponderance of medical evidence.

20 (3) Notwithstanding subsection (1), beginning July 1,
21 1987, through June 30, ~~1989~~ 1991, the maximum weekly
22 compensation benefits for permanent partial disability may
23 not exceed \$149.50, which is one-half the state's average
24 weekly wage established July 1, 1986."

25 **Section 4.** Section 39-71-704, MCA, is amended to read:

1 ***39-71-704. Payment of medical, hospital, and related**
 2 **services -- fee schedules and hospital rates.** (1) In
 3 addition to the compensation provided by this chapter and as
 4 an additional benefit separate and apart from compensation,
 5 the following must be furnished:

6 (a) After the happening of the injury, the insurer
 7 shall furnish, without limitation as to length of time or
 8 dollar amount, reasonable services by a physician or
 9 surgeon, reasonable hospital services and medicines when
 10 needed, and such other treatment as may be approved by the
 11 department for the injuries sustained.

12 (b) The insurer shall replace or repair prescription
 13 eyeglasses, prescription contact lenses, prescription
 14 hearing aids, and dentures that are damaged or lost as a
 15 result of an injury, as defined in 39-71-119, arising out of
 16 and in the course of employment.

17 (c) The insurer shall reimburse a worker for
 18 reasonable travel expenses incurred in travel to a medical
 19 provider for treatment of an injury pursuant to rules
 20 adopted by the department. Reimbursement must be at the
 21 rates allowed for reimbursement of travel by state
 22 employees.

23 (2) A relative value fee schedule for medical,
 24 chiropractic, and paramedical services provided for in this
 25 chapter, excluding hospital services, must be established

1 annually by the department and become effective in January
 2 of each year. The maximum fee schedule must be adopted as a
 3 relative value fee schedule of medical, chiropractic, and
 4 paramedical services, with unit values to indicate the
 5 relative relationship within each grouping of specialties.
 6 Medical fees must be based on the median fees as billed to
 7 the state fund during the year preceding the adoption of the
 8 schedule. The state fund shall report fees billed in the
 9 form and at the times required by the department. The
 10 department shall adopt rules establishing relative unit
 11 values, groups of specialties, the procedures insurers must
 12 use to pay for services under the schedule, and the method
 13 of determining the median of billed medical fees. These
 14 rules must be modeled on the 1974 revision of the 1969
 15 California Relative Value Studies.

16 (3) Beginning January 1, 1988, the department shall
 17 establish rates for hospital services necessary for the
 18 treatment of injured workers. Approved rates must be in
 19 effect for a period of 12 months from the date of approval.
 20 The department may coordinate this ratesetting function with
 21 other public agencies that have similar responsibilities.

22 (4) Notwithstanding subsection (2), beginning January
 23 1, 1988, and ~~ending January 1, 1990~~ through December 31,
 24 1991, the maximum fees payable by insurers must be limited
 25 to the relative value fee schedule established in January

1 1987. Notwithstanding subsection (3), beginning January 1,
 2 1988, through December 31, 1991, the hospital rates payable
 3 by insurers must be limited to those set in January 1988,
 4 ~~until December 31, 1989.~~"

5 **Section 5.** Section 39-71-721, MCA, is amended to read:

6 "39-71-721. Compensation for injury causing death --
 7 limitation. (1) (a) If an injured employee dies and the
 8 injury was the proximate cause of such death, then the
 9 beneficiary of the deceased is entitled to the same
 10 compensation as though the death occurred immediately
 11 following the injury. A beneficiary's eligibility for
 12 benefits commences after the date of death, and the benefit
 13 level is established as set forth in subsection (2).

14 (b) The insurer is entitled to recover any
 15 overpayments or compensation paid in a lump sum to a worker
 16 prior to death but not yet recouped. The insurer shall
 17 recover such payments from the beneficiary's biweekly
 18 payments as provided in 39-71-741(5).

19 (2) To beneficiaries as defined in 39-71-116(2)(a)
 20 through (2)(d), weekly compensation benefits for an injury
 21 causing death are 66 2/3% of the decedent's wages. The
 22 maximum weekly compensation benefit may not exceed the
 23 state's average weekly wage at the time of injury. The
 24 minimum weekly compensation benefit is 50% of the state's
 25 average weekly wage, but in no event may it exceed the

1 decedent's actual wages at the time of his death.

2 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 3 (2)(f), weekly benefits must be paid to the extent of the
 4 dependency at the time of the injury, subject to a maximum
 5 of 66 2/3% of the decedent's wages. The maximum weekly
 6 compensation may not exceed the state's average weekly wage
 7 at the time of injury.

8 (4) If the decedent leaves no beneficiary as defined
 9 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
 10 to the decedent's surviving parent or parents.

11 (5) If any beneficiary of a deceased employee dies,
 12 the right of such beneficiary to compensation under this
 13 chapter ceases. Death benefits must be paid to a surviving
 14 spouse for 500 weeks subsequent to the date of the deceased
 15 employee's death or until the spouse's remarriage, whichever
 16 occurs first. After benefit payments cease to a surviving
 17 spouse, death benefits must be paid to beneficiaries, if
 18 any, as defined in 39-71-116(2)(b) through (2)(d).

19 (6) In all cases, benefits must be paid to
 20 beneficiaries, as defined in 39-71-116(2).

21 (7) Benefits paid under this section may not be
 22 adjusted for cost of living as provided in 39-71-702.

23 (8) Notwithstanding subsections (2) and (3), beginning
 24 July 1, 1987, through June 30, 1989 1991, the maximum weekly
 25 compensation benefits for injury causing death may not

1 exceed the state's average weekly wage of \$299 established
 2 July 1, 1986. Beginning July 1, 1987, through June 30, ~~1989~~
 3 1991, the minimum weekly compensation for injury causing
 4 death shall be \$149.50, which is 50% of the state's average
 5 weekly wage established July 1, 1986, but in no event may it
 6 exceed the decedent's actual wages at the time of death."

7 **Section 6.** Section 39-71-1024, MCA, is amended to
 8 read:

9 "39-71-1024. Wage supplement and partial
 10 rehabilitation benefits. (1) A worker who is in a
 11 rehabilitation program under 39-71-1019 in accordance with
 12 and for the maximum duration established by a final order of
 13 determination by the department is eligible to receive the
 14 following benefits:

15 (a) wage supplement benefits as provided in 39-71-703
 16 but with the rate based on 66 2/3% of the worker's actual
 17 wages received at the time of injury, subject to a maximum
 18 of one-half the state's average weekly wage; and

19 (b) a partial rehabilitation benefit that, together
 20 with the wage supplement provided in subsection (1)(a),
 21 provides the worker with weekly benefits equal to the
 22 worker's temporary total disability rate.

23 (2) After the worker completes the rehabilitation
 24 program, the worker's further eligibility, if any, for wage
 25 supplement benefits under 39-71-703 is reduced by the number

1 of weeks of wage supplement benefits received under
 2 subsection (1)(a).

3 (3) Notwithstanding subsection (1)(a), beginning July
 4 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 5 compensation benefit under that subsection may not exceed
 6 \$149.50, which is one-half the state's weekly wage
 7 established July 1, 1986."

8 **Section 7.** Section 39-71-2501, MCA, is amended to
 9 read:

10 "39-71-2501. (Temporary) Definitions. As used in this
 11 part, the following definitions apply:

12 (1) "Department" means the department of ~~labor-and~~
 13 ~~industry-provided-for-in-2-15-1701~~ revenue provided for in
 14 2-15-1301.

15 (2) "Employee" has the meaning set forth in 39-71-118.

16 ~~(2)(3)~~ "Employer" has the meaning set forth in
 17 39-71-117.

18 ~~(3)(4)~~ "Payroll" means the payroll of an employer for
 19 each of the calendar quarters ending March 31, June 30,
 20 September 30, and December 31, for all employments covered
 21 under 39-71-401.

22 ~~(4)(5)~~ "State fund" means the state compensation
 23 mutual insurance fund.

24 ~~(5)(6)~~ "Tax" means the workers' compensation payroll
 25 and wage tax provided for in 39-71-2503.

1 †6†(7) "Tax account" means the workers' compensation
2 payroll and wage tax account created by 39-71-2504.

3 (8) "Wages" has the meaning set forth in 39-71-123.
4 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

5 **Section 8.** Section 39-71-2502, MCA, is amended to
6 read:

7 "39-71-2502. (Temporary) Findings and purpose. (1)
8 Based on current liabilities and actuarial analysis, an
9 unfunded liability presently exists in the state fund and is
10 projected to increase. While legislative action is required
11 to correct the causes of the unfunded liability, those
12 actions will not provide sufficient funds to permit the
13 state fund to pay its existing liabilities and obligations
14 in a timely manner from premium and investment income
15 available to the state fund. Therefore, it is necessary to
16 provide a source other sources of funding for the unfunded
17 liability in addition to premium and investment income.

18 (2) The police power of the state extends to all great
19 public needs. The state, in the exercise of its police
20 power, has determined that it is greatly and immediately
21 necessary to the public welfare to make workers'
22 compensation insurance available to all employers through
23 the state fund as the insurer of last resort. In making this
24 insurance available, the state fund has incurred the
25 unfunded liability described in subsection (1). The burden

1 of this unfunded liability should not be borne solely by
2 those employers who have insured with the state fund because
3 the availability of insurance to all employers through the
4 state fund has benefited all employers who have workers'
5 compensation coverage, nor should this unfunded liability be
6 borne by employers only. Therefore, all employers who--have
7 employments and employees covered by the workers'
8 compensation laws should share in the cost of the unfunded
9 liability.

10 (3) The purpose of this part is to provide a
11 supplemental source sources of financing for the unfunded
12 liability. (Terminates June 30, 1991--sec. 10, Ch. 664, L.
13 1987.)"

14 **Section 9.** Section 39-71-2503, MCA, is amended to
15 read:

16 "39-71-2503. (Temporary) Workers' compensation payroll
17 and wage tax -- penalty. (1) (a) There is a workers'
18 compensation payroll and wage tax. The tax must be imposed
19 on:

20 (i) each employer a-workers'-compensation-payroll-tax
21 in an amount equal to 0.3% of the employer's payroll in the
22 preceding calendar quarter for all employments covered under
23 39-71-401; and

24 (ii) each employee in an amount equal to 0.3% of the
25 employee's wages in the preceding calendar quarter for all

1 employments covered under 39-71-401.

2 (b) For the purpose of this tax, a sole proprietor
3 shall pay only the employer's payroll tax on his own
4 employment.

5 (2) This--payroll The tax must be used to reduce the
6 unfunded liability in the state fund.

7 (b)(3) The tax is due and payable 30 days following
8 the end of each calendar quarter, ~~commencing with the~~
9 ~~quarter ending September 30, 1987.~~

10 (c)(4) The tax must be paid to and collected by the
11 department. The department shall prepare appropriate returns
12 to be filed by each employer or insurer with the payment of
13 the tax. Each employer shall withhold from an employee's
14 wages the wage tax provided for in subsection (1)(a)(ii) and
15 pay it to the department.

16 (d)(5) Each employer shall maintain the records the
17 department requires concerning the employer's payroll. The
18 records are subject to inspection by the department and its
19 employees and agents during regular business hours.

20 (e)(6) Taxes not paid when due bear interest at the
21 rate of 1% a month. The employer shall also pay a penalty
22 equal to 10% of the amount of the delinquent tax.

23 (2)(7) All collections of the tax are appropriated to
24 and must be deposited as received in the tax account. The
25 tax is in addition to any other tax or fee assessed against

1 employers and employees subject to the tax.

2 ~~(3)(8)~~ Sections 15-35-112 through 15-35-114,
3 15-35-121, and 15-35-122 regarding deficiency assessments,
4 credits for overpayment, statute of limitations, penalties,
5 and department rulemaking authority apply to the tax, to
6 employers and employees, and to the department. (Terminates
7 June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

8 **Section 10.** Section 39-71-2504, MCA, is amended to
9 read:

10 "39-71-2504. (Temporary) Workers' compensation payroll
11 and wage tax account. There is an a workers' compensation
12 payroll and wage tax account in the state special revenue
13 fund. All collections of the tax and interest and penalties
14 on the tax must be deposited in the account and are
15 statutorily appropriated, as provided in 17-7-502, to the
16 department to be used to reduce the unfunded liability in
17 the state fund. (Terminates June 30, 1991--sec. 10, Ch.
18 664, L. 1987.)"

19 **NEW SECTION. Section 11.** Construction of law. Nothing
20 in 39-71-2501 through 39-71-2504 may be construed to
21 conflict with the provisions of 39-71-406.

22 **NEW SECTION. Section 12.** Severability. If a part of
23 [this act] is invalid, all valid parts that are severable
24 from the invalid part remain in effect. If a part of [this
25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. **Section 13.** Retroactive applicability.
4 [Section 9] applies retroactively, within the meaning of
5 1-2-109, to all employee wages earned on or after July 1,
6 1989.

7 NEW SECTION. **Section 14.** Effective date. [This act],
8 section 57, Chapter 83, Laws of 1989, and section 23,
9 Chapter 613, Laws of 1989, are effective on passage and
10 approval of [this act].

11 NEW SECTION. **Section 15.** Termination. [Section 11]
12 terminates June 30, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB56, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise the workers' compensation act to continue the freeze on maximum weekly compensation benefits payable by an insurer; to extend the period for which a freeze is imposed on the maximum fee schedule for medical, hospital, and related services; to impose a 0.3 percent tax on employee wages, in addition to the current employer payroll tax, to reduce the unfunded liability in the state compensation mutual insurance fund; and providing an immediate effective date, a termination date and a retroactive applicability date.

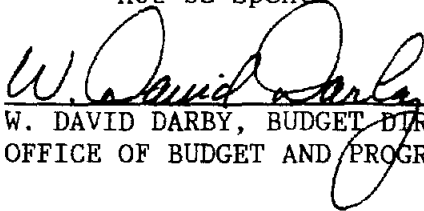
ASSUMPTIONS:

Department of Revenue:

1. Total payroll and wages subject to the employers' payroll tax and the employees' wage tax are estimated to be \$4,239,160,573 in FY90, and \$4,281,552,179 in FY91 (Workers's Compensation Division - Legislative Auditor's Report).
2. The employers' payroll tax of 0.3% will be in effect during all of the coming biennium; the employees' wage tax 0.3% will take effect July 1, 1989.
3. Additional administrative expenditures necessary to implement, maintain, and monitor the payroll and wage tax are estimated to be \$441,510 in FY90, and \$258,771 in FY91.
4. employers would file one report for both employer withholding and the Workers' Compensation Payroll Tax.
5. there are approximately 40,000 employers subject to the payroll tax and approximately 22,000 employers registered for withholding. Therefore, approximately 18,000 new filers will be added to the department's existing workload.

Division of Workers' Compensation:

1. The continuation of the freeze on maximum compensation benefit rates and the medical fee schedule will have a minimal impact on State Compensation Insurance Fund (SCIF) operational budget and a minimal impact on the Insurance Compliance (Department) operational budget.
2. These freeze continuations will reduce the FY90 rate increase of \$19.9 million by \$3.1 million.
3. The revenue from the 0.3% tax on employee wages will be considered in the present plan to retire the unfunded liability in 10 years (8 remaining) and will be used in calculating FY90 SCIF premium rates.
4. The employee tax will generate \$12.075 million dollars for FY90.
5. FY90 premium rates will be adjusted for past experience (both increases and decreases considered) and a factor applied to meet the \$19.9 million rate deficiency. The remaining rate increase would be \$7.262 million or 8.2%.
6. The Department of Revenue will collect the employer and employee tax; therefore, the operational costs appropriated to the Division of Workers' Compensation by the regular session of the 1989 Legislature will not be spent.


W. DAVID DARBY, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 7/1/89


JERRY L. DIRSCOLL, PRIMARY SPONSOR

DATE 7-5-89

Fiscal Note for HB56, as introduced

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State Auditor's Office:

1. The Payroll/Personnel/Position Control computer system will be modified to include a new deduction.
2. Costs will only be incurred in the first year of the biennium.
3. Rates were obtained from Systems Development Bureau Information Services Division, Department of Administration, for FY90.

Commissioner of Higher Education:

1. Assume central payroll will handle this deduction for the Commissioner of Higher Education and the Vo Techs.
2. One time programming costs in FY90 for the University Units as follows:

University of Montana	\$8,260
Montana State University	5,520
Eastern Montana College	500
Montana Tech	500
Western Montana College	100

FISCAL IMPACT:

Department of Revenue

Revenue Impact:

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
Workers' Compensation Fund						
- Payroll Tax	\$12,717,482	\$12,717,482	\$ 0	\$12,844,657	\$12,844,657	\$ 0
- Wage Tax	0	9,538,111	9,538,111	0	12,844,657	12,844,657
Total	\$12,717,482	\$22,255,593	\$9,538,111	\$12,844,647	\$25,689,314	\$12,844,657

Expenditures Impact:(State Special Revenue)

Personal						
Services	\$ 0	\$ 262,867	\$ 262,867	\$ 0	\$ 179,511	\$ 179,511
Operating						
Expenses	0	129,953	129,953	0	79,260	79,260
Equipment	0	48,690	48,690	0	0	0
Total	\$ 0	\$ 441,510	\$ 441,510	\$ 0	\$ 258,771	\$ 258,771

Division of Workers' Compensation (State Special Revenue)

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
Expenditures	\$10,053,125	\$9,988,004	(\$65,121)	\$9,801,873	\$9,736,964	(\$64,909)

Revenue Impact:

The additional \$9.538 million revenue generated, plus the \$3.1 million dollar freeze continuation, will reduce the needed rate increase to \$7.262 million, or 8.2%.

HB 56

State Auditor's Office (State Special Revenue)

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expenditures:	\$ 0	\$6,100	\$6,100	\$ 0	\$ 0	\$ 0
<u>Commissioner of Higher Education (General Fund)</u>						

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expenditures	\$ 0	\$14,880	\$14,880	\$ 0	\$ 0	\$ 0

EFFECT ON LOCAL GOVERNMENT:

County or local government entities may incur additional expenditures in withholding the employee tax.

TECHNICAL NOTES:

Department of Revenue

1. The immediate effective date and proposed retroactive applicability date of July 1, 1989 does not allow sufficient time to administer the proposal. A more appropriate date would be January 1, 1990.
2. The proposal provides that sole proprietors shall pay only the employer's payroll tax on their own employment. This language should be extended to apply to members of partnerships as well.
3. The existing statute could be repealed in its entirety and reenacted under Title 15, Chapter 30, Part 2 for Department of Revenue administrative purposes.

Division of Workers' Compensation

1. The Workers' Compensation Division is required to give 30 days notice to employers of a rate change. In order to implement these changes July 1, 1989, MCA, 39-71-2304 would need to be amended.
2. Because the Division of Workers' Compensation is presently collecting the .3% payroll tax on employers, and because it will be the employer's responsibility to collect the .3% employee tax, the Division believes it would be more cost beneficial to continue the tax rather than transfer it to the Department of Revenue. Unless it was necessary to account for the employee and employer tax separately, the computer system presently in place could continue to be used.

State Auditor's Office

1. As this bill has an applicability date of July 1, 1989, it is impossible for the Payroll/Position Control/Personnel System to be modified in time to implement the provisions of this bill. As estimated by the Systems Development Bureau, Information Services Division, Department of Administration, it would take at least 112 hours to modify the computer system.

HB 56

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS AS AMENDED

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY COMPENSATION BENEFITS PAYABLE BY AN INSURER, TO EXTEND THE PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM PERCENTAGE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES, TO IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO THE CURRENT EMPLOYER PAYROLL TAX APPROPRIATE \$20 MILLION FROM THE GENERAL FUND, TO REDUCE THE UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND; AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH SECTION 39-71-2504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 39-71-701, MCA, is amended to read:

"39-71-701. Compensation for temporary total disability. (1) Subject to the limitation in 39-71-736, a worker is eligible for temporary total disability benefits when the worker suffers a total loss of wages as a result of an injury and until the worker reaches maximum healing:

(2) The determination of temporary total disability must be supported by a preponderance of medical evidence.

(3) Weekly compensation benefits for injury producing temporary total disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall may not exceed the state's average weekly wage at the time of injury. Temporary total disability benefits shall must be paid for the duration of the worker's temporary disability. The weekly benefit amount may not be adjusted for cost of living as provided in 39-71-702(5):

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

(5) Notwithstanding subsection (3), beginning July 1, 1987, through June 30, 1989, 1991, weekly compensation benefits for temporary total disability may not exceed the state's average weekly wage of \$299 established July 1, 1986."

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

1 39-71-702,--Compensation----for-----permanent----total
 2 disability,--(1)--if--a--worker--is--no--longer--temporarily
 3 totally--disabled--and--is--unable--to--return--to--work--due--to
 4 injury,--the--worker--is--eligible--for--permanent--total
 5 disability--benefits. At an insurer's request, an evaluation
 6 of--all--options--under--39-71-1012--must--be--made--before
 7 permanent--total--disability--status--is--determined. Permanent
 8 total--disability--benefits--must--be--paid--for--the--duration--of
 9 the--worker's--permanent--total--disability,--subject--to
 10 39-71-710--and--39-71-1026.

11 (2)--The--determination--of--permanent--total--disability
 12 must--be--supported--by--a--preponderance--of--medical--evidence.

13 (3)--Weekly--compensation--benefits--for--an--injury
 14 resulting--in--permanent--total--disability--shall--be--66-2/3%--of
 15 the--wages--received--at--the--time--of--the--injury. The maximum
 16 weekly--compensation--benefits--shall--not--exceed--the--state's
 17 average--weekly--wage--at--the--time--of--injury.

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

1 (5)--A--worker's--benefit--amount--must--be--adjusted--for--a
 2 cost--of--living--increase--on--the--next--July--1--after--104--weeks
 3 of--permanent--total--disability--benefits--have--been--paid--and--on
 4 each--succeeding--July--1. A worker may not receive more than
 5 10--such--adjustments. The adjustment must be the percentage
 6 increase, if any, in the state's average weekly wage as
 7 adopted--by--the--department--over--the--state's--average--weekly
 8 wage--adopted--for--the--previous--year--or--3%,--whichever--is--less.

9 (6)--Notwithstanding--subsection--(3),--beginning--July--17
 10 1987,--through--June--30,--1989--1991,--the--maximum--weekly
 11 compensation--benefits--for--permanent--total--disability--may--not
 12 exceed--the--state's--average--weekly--wage--of--\$299--established
 13 July--17--1986."

14 **Section 3.** Section 39-71-703, MCA, is amended to read:

15 "39-71-703. Compensation----for-----permanent--partial
 16 disability----impairment--awards--and--wage--supplements;--(1)
 17 The--benefits--available--for--permanent--partial--disability--are
 18 impairment--awards--and--wage--supplements. A worker who has
 19 reached--maximum--healing--and--is--not--eligible--for--permanent
 20 total--disability--benefits--but--who--has--a--medically--determined
 21 physical--restriction--as--a--result--of--a--work--related--injury
 22 may--be--eligible--for--an--impairment--award--and--wage--supplement
 23 benefits--as--follows:

24 (a)--The--following--procedure--must--be--followed--for--an
 25 impairment--award:

1 (i) Each percentage point of impairment is compensated
 2 in an amount equal to 5 weeks times 66-2/3% of the wages
 3 received at the time of the injury, subject to a maximum
 4 compensation rate of one-half of the state's average weekly
 5 wage at the time of injury.

6 (ii) When a worker reaches maximum healing, an
 7 impairment rating is rendered by one or more physicians as
 8 provided for in 39-71-711. Impairment benefits are payable
 9 beginning the date of maximum healing.

10 (iii) An impairment award may be paid biweekly or in a
 11 lump sum, at the discretion of the worker. Lump sums paid
 12 for impairments are not subject to the requirements set
 13 forth in 39-71-741, except that lump sum conversions for
 14 benefits not accrued may be reduced to present value at the
 15 rate set forth by the department in 39-71-741(5).

16 (iv) If a worker becomes eligible for permanent total
 17 disability benefits, the insurer may recover any lump sum
 18 advance paid to a claimant for impairment, as set forth in
 19 39-71-741(5). Such right of recovery does not apply to
 20 lump sum benefits paid for the period prior to claimant's
 21 eligibility for permanent total disability benefits.

22 (v) If a worker suffers additional injury, an
 23 impairment award payable for the additional injury must be
 24 reduced by the amount of a previous award paid for
 25 impairment to the same site on the body.

1 (b) The following procedure must be followed for a
 2 wage supplement:

3 (i) A worker must be compensated in weekly benefits
 4 equal to 66-2/3% of the difference between the worker's
 5 actual wages received at the time of the injury and the
 6 wages the worker is qualified to earn in the worker's job
 7 pool, subject to a maximum compensation rate of one-half the
 8 state's average weekly wage at the time of injury.

9 (ii) Eligibility for wage supplement benefits begins at
 10 maximum healing and terminates at the expiration of 500
 11 weeks minus the number of weeks for which a worker's
 12 impairment award is payable, subject to 39-71-718. A
 13 worker's failure to sustain a wage loss compensable under
 14 subsection (1)(b)(i) does not extend the period of
 15 eligibility. However, if a worker becomes eligible for
 16 temporary total disability, permanent total disability, or
 17 total rehabilitation benefits after reaching maximum
 18 healing, the eligibility period for wage supplement benefits
 19 is extended by any period for which a worker is compensated
 20 by those benefits after reaching maximum healing.

21 (2) The determination of permanent partial disability
 22 must be supported by a preponderance of medical evidence.

23 (3) Notwithstanding subsection (1), beginning July 1,
 24 1987, through June 30, 1989, 1991, the maximum weekly
 25 compensation benefits for permanent partial disability may

1 not-exceed-\$149.50, which-is-one-half--the--state's--average
 2 weekly-wage-established-July-1, 1986."

3 **Section 4.** Section 39-71-704, MCA, is amended to read:
 4 "39-71-704. Payment--of-medical, hospital, and-related
 5 services----fee--schedules--and--hospital--rates----(1)--In
 6 addition-to-the-compensation-provided-by-this-chapter-and-as
 7 an--additional--benefit--separate-and-apart-from-compensation,
 8 the-following-must-be-furnished:

9 (a)--After-the-happening-of--the--injury,--the--insurer
 10 shall--furnish,--without--limitation-as-to-length-of-time-or
 11 dollar--amount,--reasonable--services--by--a--physician--or
 12 surgeon,--reasonable--hospital--services--and-medicines-when
 13 needed,--and-such-other-treatment-as-may-be-approved--by--the
 14 department-for-the-injuries-sustained;

15 (b)--The--insurer--shall--replace-or-repair-prescription
 16 eyeglasses,--prescription--contact--lenses,--prescription
 17 hearing--aids,--and--dentures--that-are-damaged-or-lost-as-a
 18 result-of-an-injury,--as-defined-in-39-71-119,--arising-out-of
 19 and-in-the-course-of-employment;

20 (c)--The--insurer--shall--reimburse--a--worker--for
 21 reasonable--travel--expenses-incurred-in-travel-to-a-medical
 22 provider-for--treatment--of--an--injury--pursuant--to--rules
 23 adopted--by--the--department. Reimbursement--must-be-at-the
 24 rates--allowed--for--reimbursement--of--travel--by--state
 25 employees;

1 (2)--A--relative--value--fee--schedule--for--medical,
 2 chiropractic,--and--paramedical--services-provided-for-in--this
 3 chapter,--excluding--hospital--services,--must-be-established
 4 annually-by-the-department-and-become-effective--in--January
 5 of--each-year. The-maximum-fee-schedule-must-be-adopted-as-a
 6 relative-value-fee-schedule-of--medical,--chiropractic,--and
 7 paramedical--services,--with--unit--values--to--indicate-the
 8 relative-relationship-within-each-grouping--of--specialties.
 9 Medical--fees--must-be-based-on-the-median-fees-as-billed-to
 10 the-state-fund-during-the-year-preceding-the-adoption-of-the
 11 schedule. The-state-fund-shall-report--fees--billed--in--the
 12 form--and--at--the--times--required--by--the-department. The
 13 department-shall--adopt--rules--establishing--relative--unit
 14 values,--groups-of-specialties,--the-procedures--insurers-must
 15 use-to-pay-for-services-under-the-schedule,--and--the--method
 16 of--determining--the--median--of--billed-medical-fees. These
 17 rules-must-be-modeled-on--the--1974--revision--of--the--1969
 18 California-Relative-Value-Studies;

19 (3)--Beginning--January--1, 1988,--the-department-shall
 20 establish-rates-for--hospital--services--necessary--for--the
 21 treatment--of--injured--workers. Approved--rates-must-be-in
 22 effect-for-a-period-of-12-months-from-the-date-of--approval.
 23 The-department-may-coordinate-this-ratesetting-function-with
 24 other-public-agencies-that-have-similar-responsibilities;

25 (4)--Notwithstanding--subsection-(2),--beginning--January

1 ~~17-1988, and ending January 17, 1990 through December 31,~~
 2 ~~1991, the maximum fees payable by insurers must be limited~~
 3 ~~to the relative value fee schedule established in January~~
 4 ~~1987. Notwithstanding subsection (3), beginning January 17~~
 5 ~~1988 through December 31, 1991, the hospital rates payable~~
 6 ~~by insurers must be limited to those set in January 1988,~~
 7 ~~until December 31, 1989."~~

8 **Section 5.** Section 39-71-721, MCA, is amended to read:

9 "39-71-721. Compensation for injury causing death ---
 10 limitation: --- (1) (a) If an injured employee dies and the
 11 injury was the proximate cause of such death, then the
 12 beneficiary of the deceased is entitled to the same
 13 compensation as though the death occurred immediately
 14 following the injury. A beneficiary's eligibility for
 15 benefits commences after the date of death, and the benefit
 16 level is established as set forth in subsection (2):

17 (b) The insurer is entitled to recover any
 18 overpayments or compensation paid in a lump sum to a worker
 19 prior to death but not yet recouped. The insurer shall
 20 recover such payments from the beneficiary's biweekly
 21 payments as provided in 39-71-741(5):

22 (2) To beneficiaries as defined in 39-71-116(2)(a)
 23 through (2)(d), weekly compensation benefits for an injury
 24 causing death are 66-2/3% of the decedent's wages. The
 25 maximum weekly compensation benefit may not exceed the

1 state's average weekly wage at the time of injury. The
 2 minimum weekly compensation benefit is 50% of the state's
 3 average weekly wage, but in no event may it exceed the
 4 decedent's actual wages at the time of his death.

5 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 6 (2)(f), weekly benefits must be paid to the extent of the
 7 dependency at the time of the injury, subject to a maximum
 8 of 66-2/3% of the decedent's wages. The maximum weekly
 9 compensation may not exceed the state's average weekly wage
 10 at the time of injury.

11 (4) If the decedent leaves no beneficiary as defined
 12 in 39-71-116(2), a lump sum payment of \$3,000 must be paid
 13 to the decedent's surviving parent or parents.

14 (5) If any beneficiary of a deceased employee dies,
 15 the right of such beneficiary to compensation under this
 16 chapter ceases. Death benefits must be paid to a surviving
 17 spouse for 500 weeks subsequent to the date of the deceased
 18 employee's death or until the spouse's remarriage, whichever
 19 occurs first. After benefit payments cease to a surviving
 20 spouse, death benefits must be paid to beneficiaries, if
 21 any, as defined in 39-71-116(2)(b) through (2)(d):

22 (6) In all cases, benefits must be paid to
 23 beneficiaries as defined in 39-71-116(2):

24 (7) Benefits paid under this section may not be
 25 adjusted for cost of living as provided in 39-71-702.

1 {8}--Notwithstanding subsections {2} and {3}, beginning
 2 July 1, 1987, through June 30, 1989, 1991, the maximum weekly
 3 compensation benefits for injury causing death may not
 4 exceed the state's average weekly wage of \$299 established
 5 July 1, 1986. Beginning July 1, 1987, through June 30, 1989
 6 1991, the minimum weekly compensation for injury causing
 7 death shall be \$149.50, which is 50% of the state's average
 8 weekly wage established July 1, 1986, but in no event may it
 9 exceed the decedent's actual wages at the time of death."

10 **Section 6.** Section 39-71-1024, MCA, is amended to
 11 read:

12 "39-71-1024. Wage supplement and partial
 13 rehabilitation benefits. (1) A worker who is in a
 14 rehabilitation program under 39-71-1019 in accordance with
 15 and for the maximum duration established by a final order of
 16 determination by the department is eligible to receive the
 17 following benefits:

18 (a) wage supplement benefits as provided in 39-71-703
 19 but with the rate based on 66-2/3% of the worker's actual
 20 wages received at the time of injury, subject to a maximum
 21 of one-half the state's average weekly wage; and

22 (b) a partial rehabilitation benefit that, together
 23 with the wage supplement provided in subsection (1)(a),
 24 provides the worker with weekly benefits equal to the
 25 worker's temporary total disability rate.

1 {2}--After the worker completes the rehabilitation
 2 program, the worker's further eligibility, if any, for wage
 3 supplement benefits under 39-71-703 is reduced by the number
 4 of weeks of wage supplement benefits received under
 5 subsection (1)(a);

6 {3}--Notwithstanding subsection (1)(a), beginning July
 7 1, 1987, through June 30, 1989, 1991, the maximum weekly
 8 compensation benefit under that subsection may not exceed
 9 \$149.50, which is one-half the state's weekly wage
 10 established July 1, 1986."

11 **Section 7.** Section 39-71-2501, MCA, is amended to
 12 read:

13 "39-71-2501. (Temporary) Definitions. As used in this
 14 part, the following definitions apply:

15 (1) "Department" means the department of labor and
 16 industry provided for in 2-15-1701 revenue provided for in
 17 2-15-1301.

18 (2) "Employee" has the meaning set forth in 39-71-110.

19 (2)(3) "Employer" has the meaning set forth in
 20 39-71-117.

21 (3)(4) "Payroll" means the payroll of an employer for
 22 each of the calendar quarters ending March 31, June 30,
 23 September 30, and December 31, for all employments covered
 24 under 39-71-401.

25 (4)(5) "State fund" means the state compensation

1 ~~mutual insurance fund.~~
 2 ~~{5}{6}--"Tax"--means--the--workers'--compensation--payroll~~
 3 ~~and--wage--tax--provided--for--in--39-71-2503.~~
 4 ~~{6}{7}--"Tax--account"--means--the--workers'--compensation~~
 5 ~~payroll--and--wage--tax--account--created--by--39-71-2504.~~
 6 ~~{8}--"Wages"--has--the--meaning--set--forth--in--39-71-123.~~
 7 ~~{Terminates--June--30,--1991--sec--10,--Ch--664,--E--1987.}~~
 8 **Section 8.** ~~Section--39-71-2502,--MCA,--is--amended--to~~
 9 ~~read:~~
 10 ~~"39-71-2502.---{Temporary}---Findings--and--purpose.---{1}~~
 11 ~~Based--on--current--liabilities--and--actuarial--analysis,--an~~
 12 ~~unfunded--liability--presently--exists--in--the--state--fund--and--is~~
 13 ~~projected--to--increase.---While--legislative--action--is--required~~
 14 ~~to--correct--the--causes--of--the--unfunded--liability,--those~~
 15 ~~actions--will--not--provide--sufficient--funds--to--permit--the~~
 16 ~~state--fund--to--pay--its--existing--liabilities--and--obligations~~
 17 ~~in--a--timely--manner--from--premium--and--investment--income~~
 18 ~~available--to--the--state--fund.---Therefore,--it--is--necessary--to~~
 19 ~~provide--a--source--other sources--of--funding--for--the--unfunded~~
 20 ~~liability--in--addition--to--premium--and--investment--income.~~
 21 ~~{2}--The--police--power--of--the--state--extends--to--all--great~~
 22 ~~public--needs.---The--state,--in--the--exercise--of--its--police~~
 23 ~~power,--has--determined--that--it--is--greatly--and--immediately~~
 24 ~~necessary--to--the--public--welfare--to--make--workers'~~
 25 ~~compensation--insurance--available--to--all--employers--through~~

1 ~~the--state--fund--as--the--insurer--of--last--resort,--in--making--this~~
 2 ~~insurance--available,--the--state--fund--has--incurred--the~~
 3 ~~unfunded--liability--described--in--subsection--(1).---The--burden~~
 4 ~~of--this--unfunded--liability--should--not--be--borne--solely--by~~
 5 ~~those--employers--who--have--insured--with--the--state--fund--because~~
 6 ~~the--availability--of--insurance--to--all--employers--through--the~~
 7 ~~state--fund--has--benefited--all--employers--who--have--workers'~~
 8 ~~compensation--coverage,--nor--should--this--unfunded--liability--be~~
 9 ~~borne--by--employers--only.---Therefore,--all--employers--who--have~~
 10 ~~employments--and--employees--covered--by--the--workers'~~
 11 ~~compensation--laws--should--share--in--the--cost--of--the--unfunded~~
 12 ~~liability.~~
 13 ~~{3}--The--purpose--of--this--part--is--to--provide--a~~
 14 ~~supplemental--source--sources--of--financing--for--the--unfunded~~
 15 ~~liability.---{Terminates--June--30,--1991--sec--10,--Ch--664,--E--~~
 16 ~~1987.}~~
 17 **Section 9.** ~~Section--39-71-2503,--MCA,--is--amended--to~~
 18 ~~read:~~
 19 ~~"39-71-2503.---{Temporary}--Workers'--compensation--payroll~~
 20 ~~and--wage--tax--penalty.---{1}--(a)---There--is--a--workers'~~
 21 ~~compensation--payroll--and--wage--tax.---The--tax--must--be--imposed~~
 22 ~~on:~~
 23 ~~{i}--each--employer--a--workers'--compensation--payroll--tax~~
 24 ~~in--an--amount--equal--to--0.3%--of--the--employer's--payroll--in--the~~
 25 ~~preceding--calendar--quarter--for--all--employments--covered--under~~

1 39-71-401; and
 2 (ii) each employee in an amount equal to 0.34 of the
 3 employee's wages in the preceding calendar quarter for all
 4 employments covered under 39-71-401;
 5 (b) For the purpose of this tax, a sole proprietor
 6 shall pay only the employer's payroll tax on his own
 7 employment;
 8 (2) This payroll tax must be used to reduce the
 9 unfunded liability in the state fund;
 10 (b)(3) The tax is due and payable 30 days following
 11 the end of each calendar quarter, commencing with the
 12 quarter ending September 30, 1987;
 13 (c)(4) The tax must be paid to and collected by the
 14 department. The department shall prepare appropriate returns
 15 to be filed by each employer or insurer with the payment of
 16 the tax. Each employer shall withhold from an employee's
 17 wages the wage tax provided for in subsection (1)(a)(ii) and
 18 pay it to the department;
 19 (d)(5) Each employer shall maintain the records the
 20 department requires concerning the employer's payroll. The
 21 records are subject to inspection by the department and its
 22 employees and agents during regular business hours;
 23 (e)(6) Taxes not paid when due bear interest at the
 24 rate of 10 percent a month. The employer shall also pay a penalty
 25 equal to 10 percent of the amount of the delinquent tax;

1 (2)(7) All collections of the tax are appropriated to
 2 and must be deposited as received in the tax account. The
 3 tax is in addition to any other tax or fee assessed against
 4 employers and employees subject to the tax;
 5 (3)(8) Sections 15-35-112 through 15-35-114,
 6 15-35-121, and 15-35-122 regarding deficiency assessments,
 7 credits for overpayment, statute of limitations, penalties,
 8 and department rulemaking authority apply to the tax, to
 9 employers and employees, and to the department. (Terminates
 10 June 30, 1991--sec. 10, Ch. 664, L. 1987.)"
 11 **Section 1.** Section 39-71-2504, MCA, is amended to
 12 read:
 13 "39-71-2504. (Temporary) Workers' compensation payroll
 14 and wage tax account. (1) There is an a workers'
 15 compensation payroll and wage tax account in the state
 16 special revenue fund.
 17 (2) All collections of the tax, and interest and
 18 penalties on the tax, AND REVENUE APPROPRIATED TO THE
 19 ACCOUNT UNDER [SECTION 2] must be deposited in the account
 20 and are statutorily appropriated, as provided in 17-7-502,
 21 to the department to be used to reduce the unfunded
 22 liability in the state fund. (Terminates June 30,
 23 1991--sec. 10, Ch. 664, L. 1987.)"
 24 **NEW SECTION. SECTION 2. APPROPRIATION. THERE IS**
 25 **APPROPRIATED \$20 MILLION FROM THE GENERAL FUND TO THE**

1 WORKERS' COMPENSATION TAX ACCOUNT IN THE STATE SPECIAL
2 REVENUE FUND FOR FISCAL YEAR 1990 TO BE USED TO REDUCE THE
3 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
4 INSURANCE FUND.

5 ~~NEW SECTION. Section 11. Construction of law.~~
6 ~~Nothing in 39-71-2501 through 39-71-2504 may be construed to~~
7 ~~conflict with the provisions of 39-71-406.~~

8 NEW SECTION. Section 3. Severability. If a part of
9 [this act] is invalid, all valid parts that are severable
10 from the invalid part remain in effect. If a part of [this
11 act] is invalid in one or more of its applications, the part
12 remains in effect in all valid applications that are
13 severable from the invalid applications.

14 ~~NEW SECTION. Section 13. Retroactive applicability.~~
15 ~~{Section 9} applies retroactively, within the meaning of~~
16 ~~1-2-109, to all employee wages earned on or after July 1,~~
17 ~~1989.~~

18 NEW SECTION. Section 4. Effective date. [This act],
19 ~~section 57, Chapter 83, Laws of 1989, and section 23,~~
20 ~~Chapter 613, Laws of 1989, are IS effective on passage and~~
21 ~~approval of {this act}.~~

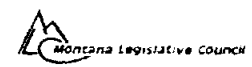
22 ~~NEW SECTION. Section 15. Termination. {Section 11}~~
23 ~~terminates June 30, 1991.~~

-End-

HB 0056/03
RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

1 HOUSE BILL NO. 56
2 INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
3 MARKS, OWENS, RAPP-SVRCEK
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS'
6 COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
7 COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
8 PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
9 SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
10 IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO
11 THE CURRENT EMPLOYER PAYROLL TAX REVISE THE WORKERS'
12 COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
13 COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
14 PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
15 SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
16 APPROPRIATE \$20 MILLION FROM THE GENERAL FUND, TO REDUCE THE
17 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
18 INSURANCE FUND; TO EXEMPT RATE CHANGES MADE IN RESPONSE TO
19 THIS ACT FROM THE 30-DAY NOTICE REQUIREMENT; AMENDING
20 SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721, 39-71-1024,
21 AND 39-71-2501 THROUGH SECTION SECTIONS 39-71-701 THROUGH
22 39-71-704, 39-71-721, 39-71-1024, AND 39-71-2504, MCA;
23 PROVIDING A COORDINATION PROVISION; AND PROVIDING AN
24 IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A
25 RETROACTIVE APPLICABILITY DATE."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2
3 ~~Section 1. Section 39-71-701, MCA, is amended to read:~~
4 ~~"39-71-701. Compensation for temporary total~~
5 ~~disability. (1) Subject to the limitation in 39-71-7367, a~~
6 ~~worker is eligible for temporary total disability benefits~~
7 ~~when the worker suffers a total loss of wages as a result of~~
8 ~~an injury and until the worker reaches maximum healing.~~
9 ~~(2) The determination of temporary total disability~~
10 ~~must be supported by a preponderance of medical evidence.~~
11 ~~(3) Weekly compensation benefits for injury producing~~
12 ~~temporary total disability shall be 66 2/3% of the wages~~
13 ~~received at the time of the injury. The maximum weekly~~
14 ~~compensation benefits shall may not exceed the state's~~
15 ~~average weekly wage at the time of injury. Temporary total~~
16 ~~disability benefits shall must be paid for the duration of~~
17 ~~the worker's temporary disability. The weekly benefit amount~~
18 ~~may not be adjusted for cost of living as provided in~~
19 ~~39-71-702(5).~~
20 ~~(4) In cases where it is determined that periodic~~
21 ~~disability benefits granted by the Social Security Act are~~
22 ~~payable because of the injury, the weekly benefits payable~~
23 ~~under this section are reduced, but not below zero, by an~~
24 ~~amount equal, as nearly as practical, to one-half the~~
25 ~~federal periodic benefits for such week, which amount is to~~



1 be--calculated--from--the--date--of--the--disability--social
2 security--entitlement;

3 (5)--Notwithstanding--subsection--(3),--beginning--July--1,
4 1987,--through--June--30,--1989--1991--weekly--compensation
5 benefits--for--temporary--total--disability--may--not--exceed--the
6 state's--average--weekly--wage--of--\$299--established--July--1,
7 1986."

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

9 39-71-702. Compensation--- for--- permanent--- total
10 disability,---(1)---if--a--worker--is--no--longer--temporarily
11 totally--disabled--and--is--unable--to--return--to--work--due--to
12 injury,---the--worker---is--eligible--for--permanent--total
13 disability--benefits. At--an--insurer's--request,--an--evaluation
14 of---all---options--under--39-71-1012--must--be--made--before
15 permanent--total--disability--status--is--determined. Permanent
16 total--disability--benefits--must--be--paid--for--the--duration--of
17 the--worker's--permanent--total--disability,---subject---to
18 39-71-710--and--39-71-1026.

19 (2)--The--determination--of--permanent--total--disability
20 must--be--supported--by--a--preponderance--of--medical--evidence.

21 (3)--Weekly--compensation--benefits--for--an--injury
22 resulting--in--permanent--total--disability--shall--be--66-2/3%--of
23 the--wages--received--at--the--time--of--the--injury. The--maximum
24 weekly--compensation--benefits--shall--not--exceed--the--state's
25 average--weekly--wage--at--the--time--of--injury.

1 (4)--in--cases--where--it--is--determined--that--periodic
2 disability--benefits--granted--by--the--Social--Security--Act--are
3 payable--because--of--the--injury,--the--weekly--benefits--payable
4 under--this--section--are--reduced,--but--not--below--zero,--by--an
5 amount--equal,--as--nearly--as--practical,--to--one--half--the
6 federal--periodic--benefits--for--such--week,--which--amount--is--to
7 be--calculated--from--the--date--of--the--disability--social
8 security--entitlement;

9 (5)--A--worker's--benefit--amount--must--be--adjusted--for--a
10 cost--of--living--increase--on--the--next--July--1--after--104--weeks
11 of--permanent--total--disability--benefits--have--been--paid--and--on
12 each--succeeding--July--1. A--worker--may--not--receive--more--than
13 10--such--adjustments. The--adjustment--must--be--the--percentage
14 increase,--if--any,--in--the--state's--average--weekly--wage--as
15 adopted--by--the--department--over--the--state's--average--weekly
16 wage--adopted--for--the--previous--year--or--3%--whichever--is--less.

17 (6)--Notwithstanding--subsection--(3),--beginning--July--1,
18 1987,--through--June--30,--1989--1991--the--maximum--weekly
19 compensation--benefits--for--permanent--total--disability--may--not
20 exceed--the--state's--average--weekly--wage--of--\$299--established
21 July--1,--1986."

22 ~~Section 3. Section 39-71-703, MCA, is amended to read:~~

23 "39-71-703. Compensation--- for--- permanent--- partial
24 disability--- impairment--awards--and--wage--supplements. (1)
25 The--benefits--available--for--permanent--partial--disability--are

1 impairment awards and wage supplements. A worker who has
 2 reached maximum healing and is not eligible for permanent
 3 total disability benefits but who has a medically determined
 4 physical restriction as a result of a work-related injury
 5 may be eligible for an impairment award and wage supplement
 6 benefits as follows:

7 (a) The following procedure must be followed for an
 8 impairment award:

9 (i) Each percentage point of impairment is compensated
 10 in an amount equal to 5 weeks times $66\frac{2}{3}\%$ of the wages
 11 received at the time of the injury, subject to a maximum
 12 compensation rate of one-half of the state's average weekly
 13 wage at the time of injury.

14 (ii) When a worker reaches maximum healing, an
 15 impairment rating is rendered by one or more physicians as
 16 provided for in 39-71-711. Impairment benefits are payable
 17 beginning the date of maximum healing.

18 (iii) An impairment award may be paid biweekly or in a
 19 lump sum, at the discretion of the worker. Lump sums paid
 20 for impairments are not subject to the requirements set
 21 forth in 39-71-741, except that lump sum conversions for
 22 benefits not accrued may be reduced to present value at the
 23 rate set forth by the department in 39-71-741(5).

24 (iv) If a worker becomes eligible for permanent total
 25 disability benefits, the insurer may recover any lump sum

1 advance paid to a claimant for impairment, as set forth in
 2 39-71-741(5). Such right of recovery does not apply to
 3 lump sum benefits paid for the period prior to claimant's
 4 eligibility for permanent total disability benefits.

5 (v) If a worker suffers additional injury, an
 6 impairment award payable for the additional injury must be
 7 reduced by the amount of a previous award paid for
 8 impairment to the same site on the body.

9 (b) The following procedure must be followed for a
 10 wage supplement:

11 (i) A worker must be compensated in weekly benefits
 12 equal to $66\frac{2}{3}\%$ of the difference between the worker's
 13 actual wages received at the time of the injury and the
 14 wages the worker is qualified to earn in the worker's job
 15 pool, subject to a maximum compensation rate of one-half the
 16 state's average weekly wage at the time of injury.

17 (ii) Eligibility for wage supplement benefits begins at
 18 maximum healing and terminates at the expiration of 500
 19 weeks minus the number of weeks for which a worker's
 20 impairment award is payable, subject to 39-71-710. A
 21 worker's failure to sustain a wage loss compensable under
 22 subsection (1)(b)(i) does not extend the period of
 23 eligibility. However, if a worker becomes eligible for
 24 temporary total disability, permanent total disability, or
 25 total rehabilitation benefits after reaching maximum

1 healing, the eligibility period for wage supplement benefits
2 is extended by any period for which a worker is compensated
3 by those benefits after reaching maximum healing;

4 (2) The determination of permanent partial disability
5 must be supported by a preponderance of medical evidence;

6 (3) Notwithstanding subsection (1), beginning July 1,
7 1987, through June 30, 1989, the maximum weekly
8 compensation benefits for permanent partial disability may
9 not exceed \$149.50, which is one-half the state's average
10 weekly wage established July 1, 1986;

11 **Section 4.** Section 39-71-704, MCA, is amended to read:

12 "39-71-704. Payment of medical, hospital, and related
13 services, fee schedules, and hospital rates, (1) In
14 addition to the compensation provided by this chapter and as
15 an additional benefit separate and apart from compensation,
16 the following must be furnished:

17 (a) After the happening of the injury, the insurer
18 shall furnish, without limitation as to length of time or
19 dollar amount, reasonable services by a physician or
20 surgeon, reasonable hospital services and medicines when
21 needed, and such other treatment as may be approved by the
22 department for the injuries sustained;

23 (b) The insurer shall replace or repair prescription
24 eyeglasses, prescription contact lenses, prescription
25 hearing aids, and dentures that are damaged or lost as a

1 result of an injury, as defined in 39-71-119, arising out of
2 and in the course of employment;

3 (c) The insurer shall reimburse a worker for
4 reasonable travel expenses incurred in travel to a medical
5 provider for treatment of an injury pursuant to rules
6 adopted by the department. Reimbursement must be at the
7 rates allowed for reimbursement of travel by state
8 employees;

9 (2) A relative value fee schedule for medical,
10 chiropractic, and paramedical services provided for in this
11 chapter, excluding hospital services, must be established
12 annually by the department and become effective in January
13 of each year. The maximum fee schedule must be adopted as a
14 relative value fee schedule of medical, chiropractic, and
15 paramedical services, with unit values to indicate the
16 relative relationship within each grouping of specialties.
17 Medical fees must be based on the median fees as billed to
18 the state fund during the year preceding the adoption of the
19 schedule. The state fund shall report fees billed in the
20 form and at the times required by the department. The
21 department shall adopt rules establishing relative unit
22 values, groups of specialties, the procedures insurers must
23 use to pay for services under the schedule, and the method
24 of determining the median of billed medical fees. These
25 rules must be modeled on the 1974 revision of the 1969

1 impairment--awards--and--wage-supplements;--A-worker-who-has
 2 reached-maximum-healing-and-is-not-eligible--for--permanent
 3 total-disability-benefits-but-who-has-a-medically-determined
 4 physical--restriction--as--a-result-of-a-work-related-injury
 5 may-be-eligible-for-an-impairment-award-and-wage--supplement
 6 benefits-as-follows:

7 (a)--The--following--procedure--must-be-followed-for-an
 8 impairment-award:

9 (i)--Each-percentage-point-of-impairment-is-compensated
 10 in-an-amount-equal-to-5-weeks-times--66-2/3%--of--the--wages
 11 received--at--the--time--of--the--injury;--subject-to-a-maximum
 12 compensation-rate-of-one-half-of-the-state's-average--weekly
 13 wage-at-the-time-of-injury;

14 (ii)--When---a---worker---reaches---maximum---healing;--an
 15 impairment-rating-is-rendered-by-one-or-more--physicians--as
 16 provided--for--in-39-71-711;--impairment-benefits-are-payable
 17 beginning-the-date-of-maximum-healing;

18 (iii)--An-impairment-award-may-be-paid-biweekly-or-in-a
 19 lump-sum;--at--the-discretion-of-the-worker;--Lump-sums-paid
 20 for-impairments-are-not--subject--to--the--requirements--set
 21 forth--in--39-71-741;--except--that-lump-sum-conversions-for
 22 benefits-not-accrued-may-be-reduced-to-present-value-at--the
 23 rate-set-forth-by-the-department-in-39-71-741(5);

24 (iv)--If--a--worker-becomes-eligible-for-permanent-total
 25 disability-benefits;--the-insurer-may--recover--any--lump-sum

1 advance--paid--to-a-claimant-for-impairment;--as-set-forth-in
 2 39-71-741(5);--Such-right-of--recovery--does--not--apply--to
 3 lump-sum--benefits--paid--for--the-period-prior-to-claimant's
 4 eligibility-for-permanent-total-disability-benefits.

5 (v)--If--a--worker--suffers---additional---injury;--an
 6 impairment--award--payable-for-the-additional-injury-must-be
 7 reduced--by--the--amount--of--a--previous--award--paid---for
 8 impairment-to-the-same-site-on-the-body;

9 (b)--The--following--procedure--must--be-followed-for-a
 10 wage-supplement:

11 (i)--A-worker-must-be-compensated--in--weekly--benefits
 12 equal--to--66-2/3%--of--the--difference-between-the-worker's
 13 actual-wages-received-at-the-time--of--the--injury--and--the
 14 wages--the-worker--is-qualified-to-earn-in-the-worker's-job
 15 pool;--subject-to-a-maximum-compensation-rate-of-one-half-the
 16 state's-average-weekly-wage-at-the-time-of-injury;

17 (ii)--Eligibility-for-wage-supplement-benefits-begins-at
 18 maximum-healing-and-terminates--at--the--expiration--of--500
 19 weeks--minus--the--number--of--weeks--for--which--a-worker's
 20 impairment--award--is--payable;--subject--to--39-71-710;--A
 21 worker's--failure--to--sustain-a-wage-loss-compensable-under
 22 subsection--(1)(b)(i)--does--not--extend--the--period--of
 23 eligibility;--However;--if--a--worker--becomes--eligible-for
 24 temporary-total-disability;--permanent-total-disability;--or
 25 total--rehabilitation--benefits--after--reaching--maximum

1 healing, the eligibility period for wage supplement benefits
2 is extended by any period for which a worker is compensated
3 by those benefits after reaching maximum healing.

4 (2) The determination of permanent partial disability
5 must be supported by a preponderance of medical evidence.

6 (3) Notwithstanding subsection (1), beginning July 1,
7 1987, through June 30, 1989, 1991, the maximum weekly
8 compensation benefits for permanent partial disability may
9 not exceed \$149.50, which is one-half the state's average
10 weekly wage established July 1, 1986.

11 **Section 4.** Section 39-71-704, MCA, is amended to read:
12 "39-71-704. Payment of medical, hospital, and related
13 services, fee schedules, and hospital rates; (1) In
14 addition to the compensation provided by this chapter and as
15 an additional benefit separate and apart from compensation,
16 the following must be furnished:

17 (a) After the happening of the injury, the insurer
18 shall furnish, without limitation as to length of time or
19 dollar amount, reasonable services by a physician or
20 surgeon, reasonable hospital services and medicines when
21 needed, and such other treatment as may be approved by the
22 department for the injuries sustained.

23 (b) The insurer shall replace or repair prescription
24 eyeglasses, prescription contact lenses, prescription
25 hearing aids, and dentures that are damaged or lost as a

1 result of an injury, as defined in 39-71-119, arising out of
2 and in the course of employment.

3 (c) The insurer shall reimburse a worker for
4 reasonable travel expenses incurred in travel to a medical
5 provider for treatment of an injury pursuant to rules
6 adopted by the department. Reimbursement must be at the
7 rates allowed for reimbursement of travel by state
8 employees.

9 (2) A relative value fee schedule for medical,
10 chiropractic, and paramedical services provided for in this
11 chapter, excluding hospital services, must be established
12 annually by the department and become effective in January
13 of each year. The maximum fee schedule must be adopted as a
14 relative value fee schedule of medical, chiropractic, and
15 paramedical services, with unit values to indicate the
16 relative relationship within each grouping of specialties.
17 Medical fees must be based on the median fees as billed to
18 the state fund during the year preceding the adoption of the
19 schedule. The state fund shall report fees billed in the
20 form and at the times required by the department. The
21 department shall adopt rules establishing relative unit
22 values, groups of specialties, the procedures insurers must
23 use to pay for services under the schedule, and the method
24 of determining the median of billed medical fees. These
25 rules must be modeled on the 1974 revision of the 1969

1 impairment--awards--and--wage--supplements;--A--worker--who--has
 2 reached--maximum--healing--and--is--not--eligible--for--permanent
 3 total--disability--benefits--but--who--has--a--medically--determined
 4 physical--restriction--as--a--result--of--a--work--related--injury
 5 may--be--eligible--for--an--impairment--award--and--wage--supplement
 6 benefits--as--follows:

7 (a)--The--following--procedure--must--be--followed--for--an
 8 impairment--award:

9 (i)--Each--percentage--point--of--impairment--is--compensated
 10 in--an--amount--equal--to--5--weeks--times-- $66\frac{2}{3}\%$ --of--the--wages
 11 received--at--the--time--of--the--injury;--subject--to--a--maximum
 12 compensation--rate--of--one--half--of--the--state's--average--weekly
 13 wage--at--the--time--of--injury;

14 (ii)--When--a--worker--reaches--maximum--healing;--an
 15 impairment--rating--is--rendered--by--one--or--more--physicians--as
 16 provided--for--in--39-71-711;--impairment--benefits--are--payable
 17 beginning--the--date--of--maximum--healing;

18 (iii)--An--impairment--award--may--be--paid--biweekly--or--in--a
 19 lump--sum;--at--the--discretion--of--the--worker;--lump--sums--paid
 20 for--impairments--are--not--subject--to--the--requirements--set
 21 forth--in--39-71-741;--except--that--lump--sum--conversions--for
 22 benefits--not--accrued--may--be--reduced--to--present--value--at--the
 23 rate--set--forth--by--the--department--in--39-71-741(5);

24 (iv)--If--a--worker--becomes--eligible--for--permanent--total
 25 disability--benefits;--the--insurer--may--recover--any--lump--sum

1 advance--paid--to--a--claimant--for--impairment;--as--set--forth--in
 2 39-71-741(5);--Such--right--of--recovery--does--not--apply--to
 3 lump--sum--benefits--paid--for--the--period--prior--to--claimant's
 4 eligibility--for--permanent--total--disability--benefits;

5 (v)--If--a--worker--suffers--additional--injury;--an
 6 impairment--award--payable--for--the--additional--injury--must--be
 7 reduced--by--the--amount--of--a--previous--award--paid--for
 8 impairment--to--the--same--site--on--the--body;

9 (b)--The--following--procedure--must--be--followed--for--a
 10 wage--supplement:

11 (i)--A--worker--must--be--compensated--in--weekly--benefits
 12 equal--to-- $66\frac{2}{3}\%$ --of--the--difference--between--the--worker's
 13 actual--wages--received--at--the--time--of--the--injury--and--the
 14 wages--the--worker--is--qualified--to--earn--in--the--worker's--job
 15 pool;--subject--to--a--maximum--compensation--rate--of--one--half--the
 16 state's--average--weekly--wage--at--the--time--of--injury;

17 (ii)--Eligibility--for--wage--supplement--benefits--begins--at
 18 maximum--healing--and--terminates--at--the--expiration--of--500
 19 weeks--minus--the--number--of--weeks--for--which--a--worker's
 20 impairment--award--is--payable;--subject--to--39-71-710;--A
 21 worker's--failure--to--sustain--a--wage--loss--compensable--under
 22 subsection--(i)(b)(i)--does--not--extend--the--period--of
 23 eligibility;--However;--if--a--worker--becomes--eligible--for
 24 temporary--total--disability;--permanent--total--disability;--or
 25 total--rehabilitation--benefits--after--reaching--maximum

1 healing, the eligibility period for wage supplement benefits
2 is extended by any period for which a worker is compensated
3 by those benefits after reaching maximum healing.

4 (2) The determination of permanent partial disability
5 must be supported by a preponderance of medical evidence.

6 (3) Notwithstanding subsection (1), beginning July 1,
7 1987, through June 30, 1989, the maximum weekly
8 compensation benefits for permanent partial disability may
9 not exceed \$149.50, which is one-half the state's average
10 weekly wage established July 1, 1986.

11 **Section 4.** Section 39-71-704, MCA, is amended to read:
12 "39-71-704. Payment of medical, hospital, and related
13 services --- fee schedules and hospital rates, (1) In
14 addition to the compensation provided by this chapter and as
15 an additional benefit separate and apart from compensation,
16 the following must be furnished:

17 (a) After the happening of the injury, the insurer
18 shall furnish, without limitation as to length of time or
19 dollar amount, reasonable services by a physician or
20 surgeon, reasonable hospital services and medicines when
21 needed, and such other treatment as may be approved by the
22 department for the injuries sustained.

23 (b) The insurer shall replace or repair prescription
24 eyeglasses, prescription contact lenses, prescription
25 hearing aids, and dentures that are damaged or lost as a

1 result of an injury, as defined in 39-71-119, arising out of
2 and in the course of employment.

3 (c) The insurer shall reimburse a worker for
4 reasonable travel expenses incurred in travel to a medical
5 provider for treatment of an injury pursuant to rules
6 adopted by the department. Reimbursement must be at the
7 rates allowed for reimbursement of travel by state
8 employees.

9 (2) A relative value fee schedule for medical,
10 chiropractic, and paramedical services provided for in this
11 chapter, excluding hospital services, must be established
12 annually by the department and become effective in January
13 of each year. The maximum fee schedule must be adopted as a
14 relative value fee schedule of medical, chiropractic, and
15 paramedical services, with unit values to indicate the
16 relative relationship within each grouping of specialties.
17 Medical fees must be based on the median fees as billed to
18 the state fund during the year preceding the adoption of the
19 schedule. The state fund shall report fees billed in the
20 form and at the times required by the department. The
21 department shall adopt rules establishing relative unit
22 values, groups of specialties, the procedures insurers must
23 use to pay for services under the schedule, and the method
24 of determining the median of billed medical fees. These
25 rules must be modeled on the 1974 revision of the 1969

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{3}--Beginning January 1, 1988, the department shall establish rates for hospital services necessary for the treatment of injured workers. Approved rates must be in effect for a period of 12 months from the date of approval. The department may coordinate this ratesetting function with other public agencies that have similar responsibilities.

{4}--Notwithstanding subsection (2), beginning January 1, 1988, and ending January 1, 1990 through December 31, 1991, the maximum fees payable by insurers must be limited to the relative value fee schedule established in January 1987. Notwithstanding subsection (3), beginning January 1, 1988, through December 31, 1991, the hospital rates payable by insurers must be limited to those set in January 1988, until December 31, 1989."

Section 5. Section 39-71-721, MCA, is amended to read:

"39-71-721. Compensation for injury causing death-- limitation. (1) (a) If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for benefits commences after the date of death, and the benefit level is established as set forth in subsection (2):

(b) The insurer is entitled to recover any

overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover such payments from the beneficiary's biweekly payments as provided in 39-71-741(5):

(2) To beneficiaries as defined in 39-71-116(2)(a) through (2)(d), weekly compensation benefits for an injury causing death are 66-2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in no event may it exceed the decedent's actual wages at the time of his death.

(3) To beneficiaries as defined in 39-71-116(2)(e) and (2)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum of 66-2/3% of the decedent's wages. The maximum weekly compensation may not exceed the state's average weekly wage at the time of injury.

(4) If the decedent leaves no beneficiary as defined in 39-71-116(2), a lump sum payment of \$3,800 must be paid to the decedent's surviving parent or parents.

(5) If any beneficiary of a deceased employee dies, the right of such beneficiary to compensation under this chapter ceases. Death benefits must be paid to a surviving spouse for 500 weeks subsequent to the date of the deceased

1 employee's death or until the spouse's remarriage, whichever
2 occurs first. After benefit payments cease to a surviving
3 spouse, death benefits must be paid to beneficiaries, if
4 any, as defined in 39-71-116(2)(b) through (2)(d):

5 (6) In all cases, benefits must be paid to
6 beneficiaries as defined in 39-71-116(2):

7 (7) Benefits paid under this section may not be
8 adjusted for cost of living as provided in 39-71-702:

9 (8) Notwithstanding subsections (2) and (3), beginning
10 July 1, 1987, through June 30, 1989-1991, the maximum weekly
11 compensation benefits for injury causing death may not
12 exceed the state's average weekly wage of \$299 established
13 July 1, 1986. Beginning July 1, 1987, through June 30, 1989
14 1991, the minimum weekly compensation for injury causing
15 death shall be \$149.50, which is 50% of the state's average
16 weekly wage established July 1, 1986, but in no event may it
17 exceed the decedent's actual wages at the time of death."

18 **Section 6.** Section 39-71-1024, MCA, is amended to
19 read:

20 "39-71-1024. Wage supplement and partial
21 rehabilitation benefits. (1) A worker who is in a
22 rehabilitation program under 39-71-1019 in accordance with
23 and for the maximum duration established by a final order of
24 determination by the department is eligible to receive the
25 following benefits:

1 (a) wage supplement benefits as provided in 39-71-703
2 but with the rate based on 66-2/3% of the worker's actual
3 wages received at the time of injury, subject to a maximum
4 of one-half the state's average weekly wage, and

5 (b) a partial rehabilitation benefit that, together
6 with the wage supplement provided in subsection (1)(a),
7 provides the worker with weekly benefits equal to the
8 worker's temporary total disability rate.

9 (2) After the worker completes the rehabilitation
10 program, the worker's further eligibility, if any, for wage
11 supplement benefits under 39-71-703 is reduced by the number
12 of weeks of wage supplement benefits received under
13 subsection (1)(a):

14 (3) Notwithstanding subsection (1)(a), beginning July
15 1, 1987, through June 30, 1989-1991, the maximum weekly
16 compensation benefit under that subsection may not exceed
17 \$149.50, which is one-half the state's weekly wage
18 established July 1, 1986."

19 **Section 7.** Section 39-71-2501, MCA, is amended to
20 read:

21 "39-71-2501. (Temporary) Definitions. As used in this
22 part, the following definitions apply:

23 (1) "Department" means the department of labor and
24 industry provided for in 2-15-1701 revenue provided for in
25 2-15-1301.

1 (2) "Employee" has the meaning set forth in 39-71-118;

2 (2)(3) "Employer" has the meaning set forth in
3 39-71-117;

4 (3)(4) "Payroll" means the payroll of an employer for
5 each of the calendar quarters ending March 31, June 30,
6 September 30, and December 31, for all employments covered
7 under 39-71-401;

8 (4)(5) "State fund" means the state compensation
9 mutual insurance fund;

10 (5)(6) "Tax" means the workers' compensation payroll
11 and wage tax provided for in 39-71-2503;

12 (6)(7) "Tax account" means the workers' compensation
13 payroll and wage tax account created by 39-71-2504;

14 (8) "Wages" has the meaning set forth in 39-71-123;
15 (Terminates June 30, 1991; sec. 10, Ch. 664, B, 1987.)"

16 **Section 8.** Section 39-71-2502, MCA, is amended to
17 read:

18 "39-71-2502. (Temporary) Findings and purpose. (1)
19 Based on current liabilities and actuarial analysis, an
20 unfunded liability presently exists in the state fund and is
21 projected to increase. While legislative action is required
22 to correct the causes of the unfunded liability, those
23 actions will not provide sufficient funds to permit the
24 state fund to pay its existing liabilities and obligations
25 in a timely manner from premium and investment income

1 available to the state fund. Therefore, it is necessary to
2 provide a source other sources of funding for the unfunded
3 liability in addition to premium and investment income.

4 (2) The police power of the state extends to all great
5 public needs. The state, in the exercise of its police
6 power, has determined that it is greatly and immediately
7 necessary to the public welfare to make workers'
8 compensation insurance available to all employers through
9 the state fund as the insurer of last resort. In making this
10 insurance available, the state fund has incurred the
11 unfunded liability described in subsection (1). The burden
12 of this unfunded liability should not be borne solely by
13 those employers who have insured with the state fund because
14 the availability of insurance to all employers through the
15 state fund has benefited all employers who have workers'
16 compensation coverage, nor should this unfunded liability be
17 borne by employers only. Therefore, all employers who have
18 employments and employees covered by the workers'
19 compensation laws should share in the cost of the unfunded
20 liability.

21 (3) The purpose of this part is to provide a
22 supplemental source sources of financing for the unfunded
23 liability. (Terminates June 30, 1991; sec. 10, Ch. 664, B,
24 1987.)"

25 **Section 9.** Section 39-71-2503, MCA, is amended to

1 read:

2 "39-71-2503,--(Temporary)-Workers'-compensation-payroll

3 and-wage-tax-----penalty,--(i)-(a)--There--is-a-workers'

4 compensation-payroll-and-wage-tax. The-tax-must--be--imposed

5 on:

6 (i)--each--employer--a-workers'-compensation-payroll-tax

7 in-an-amount-equal-to-0.3%--of-the-employer's-payroll-in--the

8 preceding-calendar-quarter-for-all-employments-covered-under

9 39-71-401; and

10 (ii)--each--employee--in--an-amount-equal-to-0.3%--of-the

11 employee's-wages-in-the-preceding-calendar-quarter--for--all

12 employments-covered-under-39-71-401;

13 (b)--For--the--purpose--of--this-tax, a-sole-proprietor

14 shall-pay-only--the--employer's--payroll-tax--on--his-own

15 employment;

16 (2)--This--payroll--The--tax-must-be-used-to-reduce-the

17 unfunded-liability-in-the-state-fund;

18 (b)(3)--The-tax-is-due-and-payable--30--days--following

19 the--end--of--each--calendar--quarter,--commencing--with-the

20 quarter-ending-September-30, 1987;

21 (c)(4)--The-tax-must-be-paid-to-and--collected--by--the

22 department. The-department-shall-prepare-appropriate-returns

23 to--be-filed-by-each-employer-or-insurer-with-the-payment-of

24 the-tax. Each-employer-shall--withhold--from--an-employee's

25 wages-the-wage-tax-provided-for-in-subsection-(i)(a)(ii)-and

1 pay-it-to-the-department;

2 (d)(5)--Each--employer--shall--maintain-the-records-the

3 department-requires-concerning-the-employer's--payroll;--The

4 records--are-subject-to-inspection-by-the-department-and-its

5 employees-and-agents-during-regular-business-hours;

6 (e)(6)--Taxes-not-paid-when-due-bear--interest--at--the

7 rate--of--1%--a-month. The-employer-shall-also-pay-a-penalty

8 equal-to-10%--of-the-amount-of-the-delinquent-tax;

9 (2)(7)--All-collections-of-the-tax-are-appropriated--to

10 and--must--be--deposited-as-received-in-the-tax-account. The

11 tax-is-in-addition-to-any-other-tax-or-fee-assessed--against

12 employers-and-employees-subject-to-the-tax;

13 (3)(8)--Sections-----15-35-112----through----15-35-114,

14 15-35-121, and-15-35-122-regarding--deficiency--assessments,

15 credits--for-overpayment, statute-of-limitations, penalties,

16 and-department-rulemaking-authority-apply--to--the--tax,--to

17 employers-and-employees, and-to-the-department.--(Terminates

18 June-30, 1991--sec. 10, Ch. 664, B. 1987.)"

19 **SECTION 1. SECTION 39-71-701, MCA, IS AMENDED TO READ:**

20 "39-71-701. Compensation for temporary total

21 disability. (1) Subject to the limitation in 39-71-736, a

22 worker is eligible for temporary total disability benefits

23 when the worker suffers a total loss of wages as a result of

24 an injury and until the worker reaches maximum healing.

25 (2) The determination of temporary total disability

1 must be supported by a preponderance of medical evidence.

2 (3) Weekly compensation benefits for injury producing
3 temporary total disability shall be 66 2/3% of the wages
4 received at the time of the injury. The maximum weekly
5 compensation benefits ~~shall~~ may not exceed the state's
6 average weekly wage at the time of injury. Temporary total
7 disability benefits ~~shall~~ must be paid for the duration of
8 the worker's temporary disability. The weekly benefit amount
9 may not be adjusted for cost of living as provided in
10 39-71-702(5).

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

19 (5) Notwithstanding subsection (3), beginning July 1,
20 1987, through June 30, ~~1989~~ 1991, weekly compensation
21 benefits for temporary total disability may not exceed the
22 state's average weekly wage of \$299 established July 1,
23 1986."

24 **SECTION 2. SECTION 39-71-702, MCA, IS AMENDED TO READ:**
25 **"39-71-702. Compensation for permanent total**

1 **disability.** (1) If a worker is no longer temporarily totally
2 disabled and is unable to return to work due to injury, the
3 worker is eligible for permanent total disability benefits.
4 At an insurer's request, an evaluation of all options under
5 39-71-1012 must be made before permanent total disability
6 status is determined. Permanent total disability benefits
7 must be paid for the duration of the worker's permanent
8 total disability, subject to 39-71-710 and 39-71-1026.

9 (2) The determination of permanent total disability
10 must be supported by a preponderance of medical evidence.

11 (3) Weekly compensation benefits for an injury
12 resulting in permanent total disability shall be 66 2/3% of
13 the wages received at the time of the injury. The maximum
14 weekly compensation benefits shall not exceed the state's
15 average weekly wage at the time of injury.

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

24 (5) A worker's benefit amount must be adjusted for a
25 cost-of-living increase on the next July 1 after 104 weeks

1 of permanent total disability benefits have been paid and on
 2 each succeeding July 1. A worker may not receive more than
 3 10 such adjustments. The adjustment must be the percentage
 4 increase, if any, in the state's average weekly wage as
 5 adopted by the department over the state's average weekly
 6 wage adopted for the previous year or 3%, whichever is less.

7 (6) Notwithstanding subsection (3), beginning July 1,
 8 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 9 compensation benefits for permanent total disability may not
 10 exceed the state's average weekly wage of \$299 established
 11 July 1, 1986."

12 **SECTION 3. SECTION 39-71-703, MCA, IS AMENDED TO READ:**

13 *39-71-703. Compensation for permanent partial
 14 disability -- impairment awards and wage supplements. (1)
 15 The benefits available for permanent partial disability are
 16 impairment awards and wage supplements. A worker who has
 17 reached maximum healing and is not eligible for permanent
 18 total disability benefits but who has a medically determined
 19 physical restriction as a result of a work-related injury
 20 may be eligible for an impairment award and wage supplement
 21 benefits as follows:

22 (a) The following procedure must be followed for an
 23 impairment award:

24 (i) Each percentage point of impairment is compensated
 25 in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages

1 received at the time of the injury, subject to a maximum
 2 compensation rate of one-half of the state's average weekly
 3 wage at the time of injury.

4 (ii) When a worker reaches maximum healing, an
 5 impairment rating is rendered by one or more physicians as
 6 provided for in 39-71-711. Impairment benefits are payable
 7 beginning the date of maximum healing.

8 (iii) An impairment award may be paid biweekly or in a
 9 lump sum, at the discretion of the worker. Lump sums paid
 10 for impairments are not subject to the requirements set
 11 forth in 39-71-741, except that lump-sum conversions for
 12 benefits not accrued may be reduced to present value at the
 13 rate set forth by the department in 39-71-741(5).

14 (iv) If a worker becomes eligible for permanent total
 15 disability benefits, the insurer may recover any lump-sum
 16 advance paid to a claimant for impairment, as set forth in
 17 39-71-741(5). Such right of recovery does not apply to
 18 lump-sum benefits paid for the period prior to claimant's
 19 eligibility for permanent total disability benefits.

20 (v) If a worker suffers additional injury, an
 21 impairment award payable for the additional injury must be
 22 reduced by the amount of a previous award paid for
 23 impairment to the same site on the body.

24 (b) The following procedure must be followed for a
 25 wage supplement:

1 (i) A worker must be compensated in weekly benefits
 2 equal to 66 2/3% of the difference between the worker's
 3 actual wages received at the time of the injury and the
 4 wages the worker is qualified to earn in the worker's job
 5 pool, subject to a maximum compensation rate of one-half the
 6 state's average weekly wage at the time of injury.

7 (ii) Eligibility for wage supplement benefits begins at
 8 maximum healing and terminates at the expiration of 500
 9 weeks minus the number of weeks for which a worker's
 10 impairment award is payable, subject to 39-71-710. A
 11 worker's failure to sustain a wage loss compensable under
 12 subsection (1)(b)(i) does not extend the period of
 13 eligibility. However, if a worker becomes eligible for
 14 temporary total disability, permanent total disability, or
 15 total rehabilitation benefits after reaching maximum
 16 healing, the eligibility period for wage supplement benefits
 17 is extended by any period for which a worker is compensated
 18 by those benefits after reaching maximum healing.

19 (2) The determination of permanent partial disability
 20 must be supported by a preponderance of medical evidence.

21 (3) Notwithstanding subsection (1), beginning July 1,
 22 1987, through June 30, 1989 1991, the maximum weekly
 23 compensation benefits for permanent partial disability may
 24 not exceed \$149.50, which is one-half the state's average
 25 weekly wage established July 1, 1986."

1 **SECTION 4. SECTION 39-71-704, MCA, IS AMENDED TO READ:**

2 ***39-71-704. Payment of medical, hospital, and related**
 3 **services -- fee schedules and hospital rates. (1) In**
 4 **addition to the compensation provided by this chapter and as**
 5 **an additional benefit separate and apart from compensation,**
 6 **the following must be furnished:**

7 (a) After the happening of the injury, the insurer
 8 shall furnish, without limitation as to length of time or
 9 dollar amount, reasonable services by a physician or
 10 surgeon, reasonable hospital services and medicines when
 11 needed, and such other treatment as may be approved by the
 12 department for the injuries sustained.

13 (b) The insurer shall replace or repair prescription
 14 eyeglasses, prescription contact lenses, prescription
 15 hearing aids, and dentures that are damaged or lost as a
 16 result of an injury, as defined in 39-71-119, arising out of
 17 and in the course of employment.

18 (c) The insurer shall reimburse a worker for
 19 reasonable travel expenses incurred in travel to a medical
 20 provider for treatment of an injury pursuant to rules
 21 adopted by the department. Reimbursement must be at the
 22 rates allowed for reimbursement of travel by state
 23 employees.

24 (2) A relative value fee schedule for medical,
 25 chiropractic, and paramedical services provided for in this

1 chapter, excluding hospital services, must be established
 2 annually by the department and become effective in January
 3 of each year. The maximum fee schedule must be adopted as a
 4 relative value fee schedule of medical, chiropractic, and
 5 paramedical services, with unit values to indicate the
 6 relative relationship within each grouping of specialties.
 7 Medical fees must be based on the median fees as billed to
 8 the state fund during the year preceding the adoption of the
 9 schedule. The state fund shall report fees billed in the
 10 form and at the times required by the department. The
 11 department shall adopt rules establishing relative unit
 12 values, groups of specialties, the procedures insurers must
 13 use to pay for services under the schedule, and the method
 14 of determining the median of billed medical fees. These
 15 rules must be modeled on the 1974 revision of the 1969
 16 California Relative Value Studies.

17 (3) Beginning January 1, 1988, the department shall
 18 establish rates for hospital services necessary for the
 19 treatment of injured workers. Approved rates must be in
 20 effect for a period of 12 months from the date of approval.
 21 The department may coordinate this ratesetting function with
 22 other public agencies that have similar responsibilities.

23 (4) Notwithstanding subsection (2), beginning January
 24 1, 1988, ~~and ending January 1, 1990~~ through December 31,
 25 1991, the maximum fees payable by insurers must be limited

1 to the relative value fee schedule established in January
 2 1987. Notwithstanding subsection (3), beginning January 1,
 3 1988, through December 31, 1991, the hospital rates payable
 4 by insurers must be limited to those set in January 1987,
 5 ~~until December 31, 1989.~~

6 **SECTION 5. SECTION 39-71-721, MCA, IS AMENDED TO READ:**

7 **"39-71-721. Compensation for injury causing death --**
 8 **limitation. (1) (a) If an injured employee dies and the**
 9 **injury was the proximate cause of such death, then the**
 10 **beneficiary of the deceased is entitled to the same**
 11 **compensation as though the death occurred immediately**
 12 **following the injury. A beneficiary's eligibility for**
 13 **benefits commences after the date of death, and the benefit**
 14 **level is established as set forth in subsection (2).**

15 (b) The insurer is entitled to recover any
 16 overpayments or compensation paid in a lump sum to a worker
 17 prior to death but not yet recouped. The insurer shall
 18 recover such payments from the beneficiary's biweekly
 19 payments as provided in 39-71-741(5).

20 (2) To beneficiaries as defined in 39-71-116(2)(a)
 21 through (2)(d), weekly compensation benefits for an injury
 22 causing death are 66 2/3% of the decedent's wages. The
 23 maximum weekly compensation benefit may not exceed the
 24 state's average weekly wage at the time of injury. The
 25 minimum weekly compensation benefit is 50% of the state's

1 average weekly wage, but in no event may it exceed the
2 decedent's actual wages at the time of his death.

3 (3) To beneficiaries as defined in 39-71-116(2)(e) and
4 (2)(f), weekly benefits must be paid to the extent of the
5 dependency at the time of the injury, subject to a maximum
6 of 66 2/3% of the decedent's wages. The maximum weekly
7 compensation may not exceed the state's average weekly wage
8 at the time of injury.

9 (4) If the decedent leaves no beneficiary as defined
10 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
11 to the decedent's surviving parent or parents.

12 (5) If any beneficiary of a deceased employee dies,
13 the right of such beneficiary to compensation under this
14 chapter ceases. Death benefits must be paid to a surviving
15 spouse for 500 weeks subsequent to the date of the deceased
16 employee's death or until the spouse's remarriage, whichever
17 occurs first. After benefit payments cease to a surviving
18 spouse, death benefits must be paid to beneficiaries, if
19 any, as defined in 39-71-116(2)(b) through (2)(d).

20 (6) In all cases, benefits must be paid to
21 beneficiaries, as defined in 39-71-116(2).

22 (7) Benefits paid under this section may not be
23 adjusted for cost of living as provided in 39-71-702.

24 (8) Notwithstanding subsections (2) and (3), beginning
25 July 1, 1987, through June 30, 1989 1991, the maximum weekly

1 compensation benefits for injury causing death may not
2 exceed the state's average weekly wage of \$299 established
3 July 1, 1986. Beginning July 1, 1987, through June 30, ~~1989~~
4 1991, the minimum weekly compensation for injury causing
5 death shall be \$149.50, which is 50% of the state's average
6 weekly wage established July 1, 1986, but in no event may it
7 exceed the decedent's actual wages at the time of death."

8 **Section 6.** Section 39-71-1024, MCA, is amended to
9 read:

10 "39-71-1024. Wage supplement and partial
11 rehabilitation benefits. (1) A worker who is in a
12 rehabilitation program under 39-71-1019 in accordance with
13 and for the maximum duration established by a final order of
14 determination by the department is eligible to receive the
15 following benefits:

16 (a) wage supplement benefits as provided in 39-71-703
17 but with the rate based on 66 2/3% of the worker's actual
18 wages received at the time of injury, subject to a maximum
19 of one-half the state's average weekly wage; and

20 (b) a partial rehabilitation benefit that, together
21 with the wage supplement provided in subsection (1)(a),
22 provides the worker with weekly benefits equal to the
23 worker's temporary total disability rate.

24 (2) After the worker completes the rehabilitation
25 program, the worker's further eligibility, if any, for wage

1 supplement benefits under 39-71-703 is reduced by the number
 2 of weeks of wage supplement benefits received under
 3 subsection (1)(a).

4 (3) Notwithstanding subsection (1)(a), beginning July
 5 1, 1987, through June 30, 1989 1991, the maximum weekly
 6 compensation benefit under that subsection may not exceed
 7 \$149.50, which is one-half the state's weekly wage
 8 established July 1, 1986."

9 **Section 7.** Section 39-71-2504, MCA, is amended to
 10 read:

11 "39-71-2504. (Temporary) Workers' compensation payroll
 12 and--wage tax account. (1) There is an a workers'
 13 compensation payroll--and--wage tax account in the state
 14 special revenue fund.

15 (2) All collections of the tax, and interest and
 16 penalties on the tax, AND REVENUE APPROPRIATED TO THE
 17 ACCOUNT UNDER [SECTION 2] must be deposited in the account
 18 and are statutorily appropriated, as provided in 17-7-502,
 19 to the department to be used to reduce the unfunded
 20 liability in the state fund. (Terminates June 30,
 21 1991--sec. 10, Ch. 664, L. 1987.)"

22 NEW SECTION. SECTION 8. APPROPRIATION. THERE IS
 23 APPROPRIATED \$20 MILLION FROM THE GENERAL FUND TO THE
 24 WORKERS' COMPENSATION TAX ACCOUNT IN THE STATE SPECIAL
 25 REVENUE FUND FOR FISCAL YEAR 1990 TO BE USED TO REDUCE THE

1 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
 2 INSURANCE FUND.

3 ~~NEW SECTION. Section 11. Construction of law.~~
 4 ~~Nothing in 39-71-2501 through 39-71-2504 may be construed to~~
 5 ~~conflict with the provisions of 39-71-406.~~

6 NEW SECTION. SECTION 9. EXEMPTION FROM NOTICE
 7 REQUIREMENT. THE 30-DAY NOTICE REQUIREMENT IMPOSED UNDER
 8 39-71-2304(1) DOES NOT APPLY TO RATE CHANGES EFFECTIVE JULY
 9 1, 1989, MADE IN RESPONSE TO THE PROVISIONS OF [THIS ACT].

10 NEW SECTION. Section 10. Severability. If a part of
 11 [this act] is invalid, all valid parts that are severable
 12 from the invalid part remain in effect. If a part of [this
 13 act] is invalid in one or more of its applications, the part
 14 remains in effect in all valid applications that are
 15 severable from the invalid applications.

16 ~~NEW SECTION. Section 13. Retroactive applicability.~~
 17 ~~{Section--9}--applies--retroactively,--within--the--meaning--of~~
 18 ~~1-2-109,--to--all--employee--wages--earned--on--or--after--July--1,~~
 19 ~~1989.~~

20 NEW SECTION. SECTION 11. COORDINATION. IF SENATE
 21 BILL NO. 14 IS NOT PASSED AND APPROVED OR IF SENATE BILL NO.
 22 14 IS PASSED AND APPROVED BUT DOES NOT PROVIDE FOR THE
 23 ACCELERATED COLLECTION OF CORPORATE INCOME AND LICENSE TAXES
 24 WITH THE DEPOSIT OF AT LEAST \$15 MILLION OF ACCELERATED
 25 COLLECTIONS IN THE GENERAL FUND, [THIS ACT] IS VOID.

1 NEW SECTION. **Section 12.** Effective date. [This act] 7
2 section--57--Chapter--83--Laws--of--1989--and-section-23 7
3 Chapter-613-Laws-of-1989-are IS effective on passage and
4 approval of-{this-act}.

5 NEW SECTION. **Section 15.** Termination. ---{Section--11}
6 terminates-June-30-1991.

-End-

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO THE CURRENT EMPLOYER PAYROLL TAX REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO APPROPRIATE \$20 MILLION FROM THE GENERAL FUND, TO REDUCE THE UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND; TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR INTEREST PENALTIES FOR UNDERPAYMENT; TO EXEMPT RATE CHANGES MADE IN RESPONSE TO THIS ACT FROM THE 30-DAY NOTICE REQUIREMENT; AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH SECTION SECTIONS 15-31-101, 15-31-502, 39-71-701 THROUGH

39-71-704, 39-71-721, 39-71-1024, AND 39-71-2504, MCA; PROVIDING A COORDINATION PROVISION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE AND AN APPLICABILITY DATE."

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

~~Section 1. Section 39-71-701, MCA, is amended to read:~~

~~39-71-701. Compensation for temporary total disability: (1) Subject to the limitation in 39-71-736, a worker is eligible for temporary total disability benefits when the worker suffers a total loss of wages as a result of an injury and until the worker reaches maximum healing;~~

~~(2) The determination of temporary total disability must be supported by a preponderance of medical evidence.~~

~~(3) Weekly compensation benefits for injury producing temporary total disability shall be 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits shall may not exceed the state's average weekly wage at the time of injury. Temporary total disability benefits shall must be paid for the duration of the worker's temporary disability. The weekly benefit amount may not be adjusted for cost of living as provided in 39-71-702(5).~~

~~(4) In cases where it is determined that periodic disability benefits granted by the Social Security Act are~~

1 payable because of the injury, the weekly benefits payable
2 under this section are reduced, but not below zero, by an
3 amount equal, as nearly as practical, to one-half the
4 federal periodic benefits for such week, which amount is to
5 be calculated from the date of the disability social
6 security entitlement;

7 (5) Notwithstanding subsection (3), beginning July 1,
8 1987, through June 30, 1989, 1991, weekly compensation
9 benefits for temporary total disability may not exceed the
10 state's average weekly wage of \$299 established July 1,
11 1986."

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

13 39-71-702. Compensation for permanent total
14 disability. (1) If a worker is no longer temporarily
15 totally disabled and is unable to return to work due to
16 injury, the worker is eligible for permanent total
17 disability benefits. At an insurer's request, an evaluation
18 of all options under 39-71-1012 must be made before
19 permanent total disability status is determined. Permanent
20 total disability benefits must be paid for the duration of
21 the worker's permanent total disability, subject to
22 39-71-710 and 39-71-1026;

23 (2) The determination of permanent total disability
24 must be supported by a preponderance of medical evidence;

25 (3) Weekly compensation benefits for an injury

1 resulting in permanent total disability shall be 66-2/3% of
2 the wages received at the time of the injury. The maximum
3 weekly compensation benefits shall not exceed the state's
4 average weekly wage at the time of injury;

5 (4) In cases where it is determined that periodic
6 disability benefits granted by the Social Security Act are
7 payable because of the injury, the weekly benefits payable
8 under this section are reduced, but not below zero, by an
9 amount equal, as nearly as practical, to one-half the
10 federal periodic benefits for such week, which amount is to
11 be calculated from the date of the disability social
12 security entitlement;

13 (5) A worker's benefit amount must be adjusted for a
14 cost-of-living increase on the next July 1 after 104 weeks
15 of permanent total disability benefits have been paid and on
16 each succeeding July 1. A worker may not receive more than
17 10 such adjustments. The adjustment must be the percentage
18 increase, if any, in the state's average weekly wage as
19 adopted by the department over the state's average weekly
20 wage adopted for the previous year or 3%, whichever is less;

21 (6) Notwithstanding subsection (3), beginning July 1,
22 1987, through June 30, 1989, 1991, the maximum weekly
23 compensation benefits for permanent total disability may not
24 exceed the state's average weekly wage of \$299 established
25 July 1, 1986."

1 **Section 3.** Section 39-71-703, MCA, is amended to read:
 2 "39-71-703. Compensation for permanent partial
 3 disability impairment awards and wage supplements. (i)
 4 The benefits available for permanent partial disability are
 5 impairment awards and wage supplements. A worker who has
 6 reached maximum healing and is not eligible for permanent
 7 total disability benefits but who has a medically determined
 8 physical restriction as a result of a work-related injury
 9 may be eligible for an impairment award and wage supplement
 10 benefits as follows:
 11 (a) The following procedure must be followed for an
 12 impairment award:
 13 (i) Each percentage point of impairment is compensated
 14 in an amount equal to 5 weeks times 66-2/3% of the wages
 15 received at the time of the injury, subject to a maximum
 16 compensation rate of one-half of the state's average weekly
 17 wage at the time of injury.
 18 (ii) When a worker reaches maximum healing, an
 19 impairment rating is rendered by one or more physicians as
 20 provided for in 39-71-711. Impairment benefits are payable
 21 beginning the date of maximum healing.
 22 (iii) An impairment award may be paid biweekly or in a
 23 lump sum, at the discretion of the worker. Lump sums paid
 24 for impairments are not subject to the requirements set
 25 forth in 39-71-741, except that lump sum conversions for

1 benefits not accrued may be reduced to present value at the
 2 rate set forth by the department in 39-71-741(5).
 3 (iv) If a worker becomes eligible for permanent total
 4 disability benefits, the insurer may recover any lump sum
 5 advance paid to a claimant for impairment, as set forth in
 6 39-71-741(5). Such right of recovery does not apply to
 7 lump sum benefits paid for the period prior to claimant's
 8 eligibility for permanent total disability benefits.
 9 (v) If a worker suffers additional injury, an
 10 impairment award payable for the additional injury must be
 11 reduced by the amount of a previous award paid for
 12 impairment to the same site on the body.
 13 (b) The following procedure must be followed for a
 14 wage supplement:
 15 (i) A worker must be compensated in weekly benefits
 16 equal to 66-2/3% of the difference between the worker's
 17 actual wages received at the time of the injury and the
 18 wages the worker is qualified to earn in the worker's job
 19 pool, subject to a maximum compensation rate of one-half the
 20 state's average weekly wage at the time of injury.
 21 (ii) Eligibility for wage supplement benefits begins at
 22 maximum healing and terminates at the expiration of 500
 23 weeks minus the number of weeks for which a worker's
 24 impairment award is payable, subject to 39-71-710. A
 25 worker's failure to sustain a wage loss compensable under

1 subsection--(1)(b)(i)--does--not--extend--the--period--of
 2 eligibility--However--if--a--worker--becomes--eligible--for
 3 temporary--total--disability--permanent--total--disability--or
 4 total--rehabilitation--benefits--after--reaching--maximum
 5 healing--the--eligibility--period--for--wage--supplement--benefits
 6 is--extended--by--any--period--for--which--a--worker--is--compensated
 7 by--those--benefits--after--reaching--maximum--healing--

8 (2)--The--determination--of--permanent--partial--disability
 9 must--be--supported--by--a--preponderance--of--medical--evidence--

10 (3)--Notwithstanding--subsection--(1)--beginning--July--17
 11 1987--through--June--30--1989--1991--the--maximum--weekly
 12 compensation--benefits--for--permanent--partial--disability--may
 13 not--exceed--\$149.50--which--is--one--half--the--state's--average
 14 weekly--wage--established--July--17--1986--

15 **Section 4.**--Section--3)--71-704, MCA, is amended to read--

16 "39-71-704.--Payment--of--medical--hospital--and--related
 17 services--fee--schedules--and--hospital--rates--(1)--In
 18 addition--to--the--compensation--provided--by--this--chapter--and--as
 19 an--additional--benefit--separate--and--apart--from--compensation--
 20 the--following--must--be--furnished--

21 (a)--After--the--happening--of--the--injury--the--insurer
 22 shall--furnish--without--limitation--as--to--length--of--time--or
 23 dollar--amount--reasonable--services--by--a--physician--or
 24 surgeon--reasonable--hospital--services--and--medicines--when
 25 needed--and--such--other--treatment--as--may--be--approved--by--the

1 department--for--the--injuries--sustained--

2 (b)--The--insurer--shall--replace--or--repair--prescription
 3 eyeglasses--prescription--contact--lenses--prescription
 4 hearing--aids--and--dentures--that--are--damaged--or--lost--as--a
 5 result--of--an--injury--as--defined--in--39-71-1197--arising--out--of
 6 and--in--the--course--of--employment--

7 (c)--The--insurer--shall--reimburse--a--worker--for
 8 reasonable--travel--expenses--incurred--in--travel--to--a--medical
 9 provider--for--treatment--of--an--injury--pursuant--to--rules
 10 adopted--by--the--department--Reimbursement--must--be--at--the
 11 rates--allowed--for--reimbursement--of--travel--by--state
 12 employees--

13 (2)--A--relative--value--fee--schedule--for--medical--
 14 chiropractic--and--paramedical--services--provided--for--in--this
 15 chapter--excluding--hospital--services--must--be--established
 16 annually--by--the--department--and--become--effective--in--January
 17 of--each--year--The--maximum--fee--schedule--must--be--adopted--as--a
 18 relative--value--fee--schedule--of--medical--chiropractic--and
 19 paramedical--services--with--unit--values--to--indicate--the
 20 relative--relationship--within--each--grouping--of--specialties--
 21 Medical--fees--must--be--based--on--the--median--fees--as--billed--to
 22 the--state--fund--during--the--year--preceding--the--adoption--of--the
 23 schedule--The--state--fund--shall--report--fees--billed--in--the
 24 form--and--at--the--times--required--by--the--department--The
 25 department--shall--adopt--rules--establishing--relative--unit

1 values, groups of specialties, the procedures insurers must
 2 use to pay for services under the schedule, and the method
 3 of determining the median of billed medical fees. These
 4 rules must be modeled on the 1974 revision of the 1969
 5 California Relative Value Studies.

6 (3) Beginning January 1, 1988, the department shall
 7 establish rates for hospital services necessary for the
 8 treatment of injured workers. Approved rates must be in
 9 effect for a period of 12 months from the date of approval.
 10 The department may coordinate this ratesetting function with
 11 other public agencies that have similar responsibilities.

12 (4) Notwithstanding subsection (2), beginning January
 13 1, 1988, and ending January 1, 1990, through December 31,
 14 1991, the maximum fees payable by insurers must be limited
 15 to the relative value fee schedule established in January
 16 1987. Notwithstanding subsection (3), beginning January 1,
 17 1988, through December 31, 1991, the hospital rates payable
 18 by insurers must be limited to those set in January 1988,
 19 until December 31, 1989."

20 **Section 5.** Section 39-71-721, MCA, is amended to read:

21 "39-71-721. Compensation for injury causing death ---
 22 limitation. (1) (a) If an injured employee dies and the
 23 injury was the proximate cause of such death, then the
 24 beneficiary of the deceased is entitled to the same
 25 compensation as though the death occurred immediately

1 following the injury. A beneficiary's eligibility for
 2 benefits commences after the date of death, and the benefit
 3 level is established as set forth in subsection (2).

4 (b) The insurer is entitled to recover any
 5 overpayments or compensation paid in a lump sum to a worker
 6 prior to death but not yet recouped. The insurer shall
 7 recover such payments from the beneficiary's biweekly
 8 payments as provided in 39-71-741(5).

9 (2) To beneficiaries as defined in 39-71-116(2)(a)
 10 through (2)(d), weekly compensation benefits for an injury
 11 causing death are 66-2/3% of the decedent's wages. The
 12 maximum weekly compensation benefit may not exceed the
 13 state's average weekly wage at the time of injury. The
 14 minimum weekly compensation benefit is 50% of the state's
 15 average weekly wage, but in no event may it exceed the
 16 decedent's actual wages at the time of his death.

17 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 18 (2)(f), weekly benefits must be paid to the extent of the
 19 dependency at the time of the injury, subject to a maximum
 20 of 66-2/3% of the decedent's wages. The maximum weekly
 21 compensation may not exceed the state's average weekly wage
 22 at the time of injury.

23 (4) If the decedent leaves no beneficiary as defined
 24 in 39-71-116(2), a lump sum payment of \$3,000 must be paid
 25 to the decedent's surviving parent or parents.

1 (5)--If any beneficiary of a deceased employee dies,
 2 the right of such beneficiary to compensation under this
 3 chapter ceases. Death benefits must be paid to a surviving
 4 spouse for 500 weeks subsequent to the date of the deceased
 5 employee's death or until the spouse's remarriage, whichever
 6 occurs first. After benefit payments cease to a surviving
 7 spouse, death benefits must be paid to beneficiaries, if
 8 any, as defined in 39-71-116(2)(b) through (2)(d):

9 (6)--In all cases, benefits must be paid to
 10 beneficiaries as defined in 39-71-116(2):

11 (7)--Benefits paid under this section may not be
 12 adjusted for cost of living as provided in 39-71-702:

13 (8)--Notwithstanding subsections (2) and (3), beginning
 14 July 1, 1987, through June 30, 1989, 1991, the maximum weekly
 15 compensation benefits for injury causing death may not
 16 exceed the state's average weekly wage of \$299 established
 17 July 1, 1986. Beginning July 1, 1987, through June 30, 1989
 18 1991, the minimum weekly compensation for injury causing
 19 death shall be \$149,507 which is 50% of the state's average
 20 weekly wage established July 1, 1986, but in no event may it
 21 exceed the decedent's actual wages at the time of death."

22 **Section 6.** Section 39-71-1024, MCA, is amended to
 23 read:

24 "39-71-1024. Wage supplement and partial
 25 rehabilitation benefits. (1) A worker who is in a

1 rehabilitation program under 39-71-1019 in accordance with
 2 and for the maximum duration established by a final order of
 3 determination by the department is eligible to receive the
 4 following benefits:

5 (a) wage supplement benefits as provided in 39-71-703
 6 but with the rate based on 66-2/3% of the worker's actual
 7 wages received at the time of injury, subject to a maximum
 8 of one-half the state's average weekly wage; and

9 (b) a partial rehabilitation benefit that, together
 10 with the wage supplement provided in subsection (1)(a),
 11 provides the worker with weekly benefits equal to the
 12 worker's temporary total disability rate:

13 (2) After the worker completes the rehabilitation
 14 program, the worker's further eligibility, if any, for wage
 15 supplement benefits under 39-71-703 is reduced by the number
 16 of weeks of wage supplement benefits received under
 17 subsection (1)(a):

18 (3) Notwithstanding subsection (1)(a), beginning July
 19 1, 1987, through June 30, 1989, 1991, the maximum weekly
 20 compensation benefit under that subsection may not exceed
 21 \$149,507, which is one-half the state's weekly wage
 22 established July 1, 1986."

23 **Section 7.** Section 39-71-2501, MCA, is amended to
 24 read:

25 "39-71-2501. (Temporary) Definitions. As used in this

1 part, the following definitions apply:

2 (1) "Department" means the department of labor and

3 industry provided for in 2-15-1701 revenue provided for in

4 2-15-1301;

5 (2) "Employee" has the meaning set forth in 39-71-118;

6 (2)(3) "Employer" has the meaning set forth in

7 39-71-117;

8 (3)(4) "Payroll" means the payroll of an employer for

9 each of the calendar quarters ending March 31, June 30,

10 September 30, and December 31 for all employments covered

11 under 39-71-401;

12 (4)(5) "State fund" means the state compensation

13 mutual insurance fund;

14 (5)(6) "Tax" means the workers' compensation payroll

15 and wage tax provided for in 39-71-2503;

16 (6)(7) "Tax account" means the workers' compensation

17 payroll and wage tax account created by 39-71-2504;

18 (8) "Wages" has the meaning set forth in 39-71-123;

19 (Terminates June 30, 1991--sec. 107-Ch. 6647-B-1987.)"

20 **Section 8.** Section 39-71-2502, MCA, is amended to

21 read:

22 "39-71-2502. (Temporary) Findings and purpose--(1)

23 Based on current liabilities and actuarial analysis, an

24 unfunded liability presently exists in the state fund and is

25 projected to increase. While legislative action is required

1 to correct the causes of the unfunded liability, those

2 actions will not provide sufficient funds to permit the

3 state fund to pay its existing liabilities and obligations

4 in a timely manner from premium and investment income

5 available to the state fund. Therefore, it is necessary to

6 provide a source other sources of funding for the unfunded

7 liability in addition to premium and investment income.

8 (2) The police power of the state extends to all great

9 public needs. The state, in the exercise of its police

10 power, has determined that it is greatly and immediately

11 necessary to the public welfare to make workers'

12 compensation insurance available to all employers through

13 the state fund as the insurer of last resort. In making this

14 insurance available, the state fund has incurred the

15 unfunded liability described in subsection (1). The burden

16 of this unfunded liability should not be borne solely by

17 those employers who have insured with the state fund because

18 the availability of insurance to all employers through the

19 state fund has benefited all employers who have workers'

20 compensation coverage, nor should this unfunded liability be

21 borne by employers only. Therefore, all employers who have

22 employments and employees covered by the workers'

23 compensation laws should share in the cost of the unfunded

24 liability.

25 (3) The purpose of this part is to provide a

1 ~~supplemental--source--sources--of-financing-for-the-unfunded~~
2 ~~liability;--(Terminates-June-30,1991--sec--107-Ch--664--B--~~
3 ~~1987;)"~~

4 ~~Section 9.--Section--39-71-2503,--MCA,--is--amended--to~~
5 ~~read:~~

6 ~~"39-71-2503--(Temporary)Workers'-compensation-payroll~~
7 ~~and-wage-tax-----penalty;--(1)-(a)--There--is--a--workers'~~
8 ~~compensation--payroll--and-wage-tax;--The-tax-must-be-imposed~~
9 ~~on:~~

10 ~~(i) each-employer-a-workers'-compensation--payroll--tax~~
11 ~~in--an-amount-equal-to-0.3%--of-the-employer's-payroll-in-the~~
12 ~~preceding-calendar-quarter-for-all-employments-covered-under~~
13 ~~39-71-401;--and~~

14 ~~(ii) each-employee-in-an-amount-equal-to--0.3%--of--the~~
15 ~~employee's--wages--in-the-preceding-calendar-quarter-for-all~~
16 ~~employments-covered-under-39-71-401;~~

17 ~~(b) --For-the-purpose-of-this--tax,--a--sole--proprietor~~
18 ~~shall-pay--only--the--employer's--payroll--tax--on--his--own~~
19 ~~employment;~~

20 ~~(2) --This-payroll--The-tax-must-be-used--to--reduce--the~~
21 ~~unfunded-liability-in-the-state-fund;~~

22 ~~(b)(3) --The--tax--is--due-and-payable--30-days-following~~
23 ~~the-end--of--each--calendar--quarter,--commencing--with--the~~
24 ~~quarter-ending-September-30,1987;~~

25 ~~(c)(4) --The--tax--must--be-paid-to-and-collected-by-the~~

1 ~~department;--The-department-shall-prepare-appropriate-returns~~
2 ~~to-be-filed-by-each-employer-or-insurer-with-the-payment--of~~
3 ~~the--tax;--Each--employer--shall-withhold-form-an-employee's~~
4 ~~wages-the-wage-tax-provided-for-in-subsection-(1)(a)(ii)-and~~
5 ~~pay-it-to-the-department;~~

6 ~~(d)(5) --Each-employer-shall-maintain--the--records--the~~
7 ~~department--requires--concerning-the-employer's-payroll;--The~~
8 ~~records-are-subject-to-inspection-by-the-department-and--its~~
9 ~~employees-and-agents-during-regular-business-hours;~~

10 ~~(e)(6) --Taxes--not--paid--when-due-bear-interest-at-the~~
11 ~~rate-of-1%--a-month;--The-employer-shall-also--pay--a--penalty~~
12 ~~equal-to-10%--of-the-amount-of-the-delinquent-tax;~~

13 ~~(2)(7) --All--collections-of-the-tax-are-appropriated-to~~
14 ~~and-must-be-deposited-as-received-in-the--tax--account;--The~~
15 ~~tax--is-in-addition-to-any-other-tax-or-fee-assessed-against~~
16 ~~employers--and-employees--subject-to-the-tax;~~

17 ~~(3)(8) --Sections--15-35-112--through--15-35-114,~~
18 ~~15-35-121,--and--15-35-122--regarding-deficiency-assessments,~~
19 ~~credits-for-overpayment,--statute-of-limitations,--penalties,~~
20 ~~and--department--rulemaking--authority--apply-to-the-tax,--to~~
21 ~~employers--and-employees,--and-to-the-department;--(Terminates~~
22 ~~June-30,1991--sec--107-Ch--664--B--1987;)"~~

23 **SECTION 1. SECTION 15-31-101, MCA, IS AMENDED TO READ:**

24 **"15-31-101. Organizations subject to tax. (1) The term**
25 **"corporation" includes associations, joint-stock companies,**

1 common-law trusts and business trusts which do business in
2 an organized capacity, and all other corporations whether
3 created, organized, or existing under and pursuant to the
4 laws, agreements, or declarations of trust of any state,
5 country, or the United States.

6 (2) The terms "engaged in business" and "doing
7 business" both mean actively engaging in any transaction for
8 the purpose of financial or pecuniary gain or profit.

9 (3) Except as provided in 15-31-103 or 33-2-705(4) or
10 as may be otherwise specifically provided, every corporation
11 engaged in business in the state of Montana shall annually
12 pay to the state treasurer as a license fee for the
13 privilege of carrying on business in this state such
14 percentage or percentages of its total net income for the
15 preceding taxable year at the rate hereinafter set forth. In
16 the case of corporations having income from business
17 activity which is taxable both within and without this
18 state, the license fee shall be measured by the net income
19 derived from or attributable to Montana sources as
20 determined under part 3. This Except as provided in
21 15-31-502, this tax is due and payable on the 15th day of
22 the 5th month following the close of the taxable year of the
23 corporation; however, the tax becomes a lien as provided in
24 this chapter on the last day of the taxable year in which
25 the income was earned and is for the privilege of carrying

1 on business in this state for the taxable year in which the
2 income was earned.

3 (4) Every bank organized under the laws of the state
4 of Montana, of any other state, or of the United States and
5 every savings and loan association organized under the laws
6 of this state or of the United States is subject to the
7 Montana corporation license tax provided for under this
8 chapter. For taxable years beginning on and after January 1,
9 1972, this subsection is effective in accordance with Public
10 Law 91-156, section 2 (12 U.S.C. 548)."

11 **SECTION 2. SECTION 15-31-502, MCA, IS AMENDED TO READ:**

12 "15-31-502. Assessment and payment of tax, penalty,
13 and interest -- estimated tax payment. (1) All taxpayers
14 shall compute the amount of tax payable under this chapter
15 and shall remit such the amount to the department of revenue
16 on or before the 15th day of the 5th month following the
17 close of the taxable period. If the tax is not paid on or
18 before the due date, there shall be assessed a penalty of
19 10% of the amount of the tax unless it is shown that the
20 failure was due to reasonable cause and not due to neglect.
21 If any tax due under this chapter is not paid when due, by
22 reason of extension granted or otherwise, interest shall be
23 added thereto at the rate of 12% per annum from the due date
24 until paid.

25 (2) Each corporation shall make estimated tax payments

1 if its annual estimated tax can reasonably be expected to be
2 \$5,000 or more. The estimated payments must be made in
3 installments as follows:

4 (a) If the \$5,000 threshold is met or exceeded: The following percentages of
5 the estimated tax must be
6 paid on the 15th day of the
7 applicable months:

	<u>4th</u>	<u>6th</u>	<u>9th</u>	<u>12th</u>
	<u>month</u>	<u>month</u>	<u>month</u>	<u>month</u>
10 <u>Before the 1st day of the</u>				
11 <u>4th month of the taxable</u>				
12 <u>year:</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>
13 <u>After the last day of the</u>				
14 <u>3rd month and before the</u>				
15 <u>1st day of the 6th month of</u>				
16 <u>the taxable year:</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	
17 <u>After the last day of the</u>				
18 <u>5th month and before the</u>				
19 <u>1st day of the 9th month of</u>				
20 <u>the taxable year:</u>		<u>50%</u>	<u>50%</u>	
21 <u>After the last day of the</u>				
22 <u>8th month and before the</u>				
23 <u>12th month of the taxable</u>				
24 <u>year:</u>			<u>100%</u>	

25 (b) If after paying any installment of estimated tax

1 the taxpayer makes a new estimate, the amount of each
2 installment, if any, is the amount that would have been paid
3 if the new estimate had been made when the first estimate
4 for the taxable year was made, increased or decreased, as
5 the case may be, by the amount computed by dividing:

- 6 (i) the difference between:
- 7 (A) the amount of estimated tax required to be paid
- 8 before the date on which the new estimate was made; and
- 9 (B) the amount of estimated tax that would have been
- 10 required to be paid before that date if the new estimate had
- 11 been made when the first estimate was made:

12 (ii) by the number of installments remaining to be paid
13 on or after the date on which the new estimate was made.

14 (3) The application of this section to taxable years
15 of less than 12 months must be in accordance with rules
16 adopted by the department.

17 (4) At the election of the corporation, any
18 installment of the estimated tax may be paid before the date
19 prescribed for its payment."

20 NEW SECTION. SECTION 3. ESTIMATED PAYMENTS --
21 INTEREST PENALTY -- TAX RETURNS -- PENALTY -- INTEREST. (1)
22 FOR CORPORATIONS FAILING TO MAKE ESTIMATED PAYMENTS
23 ACCORDING TO THE SCHEDULE PROVIDED IN 15-31-502(2), THERE IS
24 ASSESSED A 20% PER ANNUM UNDERPAYMENT INTEREST PENALTY
25 CALCULATED AS FOLLOWS:

1 (A) FOR PURPOSES OF THIS SUBSECTION (A), THE AMOUNT OF
 2 UNDERPAYMENT IS IN EXCESS OF THE AMOUNT OF THE INSTALLMENT
 3 THAT WOULD BE REQUIRED TO BE PAID IF THE ESTIMATED TAX WERE
 4 EQUAL TO 80% OF THE TAX SHOWN ON THE RETURN FOR THE TAXABLE
 5 YEAR OR, IF NO RETURN WAS FILED, 80% OF THE TAX FOR THE YEAR
 6 OVER THE AMOUNT, IF ANY, OF THE INSTALLMENT PAID ON OR
 7 BEFORE THE LAST DATE PRESCRIBED FOR PAYMENT.

8 (B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
 9 (1)(A), THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT
 10 OF ANY INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF
 11 ALL PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST
 12 DATE PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR
 13 EXCEEDS THE AMOUNT THAT WOULD HAVE BEEN REQUIRED TO BE PAID
 14 ON OR BEFORE THAT DATE IF THE ESTIMATED TAX WERE THE LESSER
 15 OF THE FOLLOWING:

16 (I) THE TAX SHOWN ON THE RETURN OF THE CORPORATION FOR
 17 THE PRECEDING TAXABLE YEAR IF A RETURN SHOWING A LIABILITY
 18 FOR TAX WAS FILED FOR THE PRECEDING TAXABLE YEAR AND THE
 19 PRECEDING YEAR WAS A TAXABLE YEAR OF 12 MONTHS;

20 (II) AN AMOUNT EQUAL TO THE TAX COMPUTED AT THE RATES
 21 APPLICABLE TO THE TAXABLE YEAR, BUT OTHERWISE ON THE BASIS
 22 OF THE FACTS SHOWN ON THE RETURN OF THE CORPORATION FOR, AND
 23 THE LAW APPLICABLE TO, THE PRECEDING TAXABLE YEAR; OR

24 (III) AN AMOUNT EQUAL TO 80% OF THE TAX FOR THE TAXABLE
 25 YEAR, COMPUTED BY PLACING ON AN ANNUALIZED BASIS THE TAXABLE

1 INCOME:

2 (A) FOR THE FIRST 3 MONTHS OF THE TAXABLE YEAR IN THE
 3 CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 4TH
 4 MONTH;

5 (B) FOR THE FIRST 3 MONTHS OR FOR THE FIRST 5 MONTHS
 6 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 7 TO BE PAID IN THE 6TH MONTH;

8 (C) FOR THE FIRST 6 MONTHS OR FOR THE FIRST 8 MONTHS
 9 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 10 TO BE PAID IN THE 9TH MONTH; AND

11 (D) FOR THE FIRST 9 MONTHS OR FOR THE FIRST 11 MONTHS
 12 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 13 TO BE PAID IN THE 12TH MONTH OF THE TAXABLE YEAR.

14 (C) FOR PURPOSES OF SUBSECTION (1)(B)(III), THE
 15 TAXABLE INCOME MUST BE PLACED ON AN ANNUALIZED BASIS BY:

16 (I) MULTIPLYING BY 12 THE TAXABLE INCOME REFERRED TO
 17 IN SUBSECTION (1)(B)(III); AND

18 (II) DIVIDING THE RESULTING AMOUNT BY THE NUMBER OF
 19 MONTHS IN THE TAXABLE YEAR (3, 5, 6, 8, 9, OR 11, AS THE
 20 CASE MAY BE) REFERRED TO IN SUBSECTION (1)(B)(III).

21 (D) NOTWITHSTANDING SUBSECTIONS (1)(A) THROUGH (1)(C),
 22 THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT OF ANY
 23 INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF ALL
 24 PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST DATE
 25 PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR

1 EXCEEDS 80% OF THE AMOUNT DETERMINED UNDER SUBSECTION
 2 (1)(E).
 3 (E) TO DETERMINE THE AMOUNT UNDER THIS SUBSECTION (E)
 4 FOR ANY INSTALLMENT:
 5 (I) TAKE THE TAXABLE INCOME FOR ALL MONTHS DURING THE
 6 TAXABLE YEAR PRECEDING THE FILING MONTH;
 7 (II) DIVIDE THE AMOUNT BY THE BASE PERIOD PERCENTAGE
 8 FOR ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE FILING
 9 MONTH;
 10 (III) DETERMINE THE TAX ON THE AMOUNT CALCULATED UNDER
 11 SUBSECTION (1)(E)(II); AND
 12 (IV) MULTIPLY THE TAX COMPUTED UNDER SUBSECTION
 13 (1)(E)(III) BY THE BASE PERIOD PERCENTAGE FOR THE FILING
 14 MONTH AND ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE
 15 FILING MONTH.
 16 (F) FOR PURPOSES OF THIS SUBSECTION (1):
 17 (I) THE BASE PERIOD PERCENTAGE FOR ANY PERIOD OF
 18 MONTHS IS THE AVERAGE PERCENTAGE THAT THE TAXABLE INCOME FOR
 19 THE CORRESPONDING MONTHS IN EACH OF THE 3 PRECEDING TAXABLE
 20 YEARS BEARS TO THE TAXABLE INCOME OF THE 3 PRECEDING YEARS;
 21 (II) THE TERM "FILING MONTH" MEANS THE MONTH IN WHICH
 22 THE INSTALLMENT IS REQUIRED TO BE PAID;
 23 (III) THIS SUBSECTION (1) APPLIES ONLY IF THE BASE
 24 PERIOD PERCENTAGE FOR ANY 6 CONSECUTIVE MONTHS OF THE
 25 TAXABLE YEAR EQUALS OR EXCEEDS 70%; AND

1 (IV) THE DEPARTMENT OF REVENUE MAY BY RULE PROVIDE FOR
 2 THE DETERMINATION OF THE BASE PERIOD PERCENTAGE IN THE CASE
 3 OF REORGANIZATIONS, NEW CORPORATIONS, AND OTHER SIMILAR
 4 CIRCUMSTANCES.
 5 (2) IF THE TAX FOR ANY CORPORATION IS NOT PAID ON OR
 6 BEFORE THE DUE DATE OF THE RETURN AS PROVIDED IN
 7 15-31-111(2), THERE IS ASSESSED A PENALTY OF 10% OF THE
 8 AMOUNT OF THE TAX DUE, UNLESS IT IS SHOWN THAT THE FAILURE
 9 WAS DUE TO REASONABLE CAUSE AND NOT TO NEGLECT.
 10 (3) IF ANY TAX DUE UNDER THIS SECTION IS NOT PAID WHEN
 11 DUE, BY REASON OF EXTENSION GRANTED OR OTHERWISE, INTEREST
 12 IS ADDED TO THE TAX DUE AT THE RATE OF 12% A YEAR FROM THE
 13 DUE DATE UNTIL PAID.
 14 **SECTION 4. SECTION 39-71-701, MCA, IS AMENDED TO READ:**
 15 **"39-71-701. Compensation for temporary total**
 16 **disability. (1) Subject to the limitation in 39-71-736, a**
 17 **worker is eligible for temporary total disability benefits**
 18 **when the worker suffers a total loss of wages as a result of**
 19 **an injury and until the worker reaches maximum healing.**
 20 **(2) The determination of temporary total disability**
 21 **must be supported by a preponderance of medical evidence.**
 22 **(3) Weekly compensation benefits for injury producing**
 23 **temporary total disability shall be 66 2/3% of the wages**
 24 **received at the time of the injury. The maximum weekly**
 25 **compensation benefits shall may not exceed the state's**

1 average weekly wage at the time of injury. Temporary total
2 disability benefits ~~shall~~ must be paid for the duration of
3 the worker's temporary disability. The weekly benefit amount
4 may not be adjusted for cost of living as provided in
5 39-71-702(5).

6 (4) In cases where it is determined that periodic
7 disability benefits granted by the Social Security Act are
8 payable because of the injury, the weekly benefits payable
9 under this section are reduced, but not below zero, by an
10 amount equal, as nearly as practical, to one-half the
11 federal periodic benefits for such week, which amount is to
12 be calculated from the date of the disability social
13 security entitlement.

14 (5) Notwithstanding subsection (3), beginning July 1,
15 1987, through June 30, ~~1989~~ 1991, weekly compensation
16 benefits for temporary total disability may not exceed the
17 state's average weekly wage of \$299 established July 1,
18 1986."

19 **SECTION 5. SECTION 39-71-702, MCA, IS AMENDED TO READ:**

20 **"39-71-702. Compensation for permanent total**
21 **disability. (1) If a worker is no longer temporarily totally**
22 **disabled and is unable to return to work due to injury, the**
23 **worker is eligible for permanent total disability benefits.**
24 **At an insurer's request, an evaluation of all options under**
25 **39-71-101 must be made before permanent total disability**

1 status is determined. Permanent total disability benefits
2 must be paid for the duration of the worker's permanent
3 total disability, subject to 39-71-710 and 39-71-1026.

4 (2) The determination of permanent total disability
5 must be supported by a preponderance of medical evidence.

6 (3) Weekly compensation benefits for an injury
7 resulting in permanent total disability shall be 66 2/3% of
8 the wages received at the time of the injury. The maximum
9 weekly compensation benefits shall not exceed the state's
10 average weekly wage at the time of injury.

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

19 (5) A worker's benefit amount must be adjusted for a
20 cost-of-living increase on the next July 1 after 104 weeks
21 of permanent total disability benefits have been paid and on
22 each succeeding July 1. A worker may not receive more than
23 10 such adjustments. The adjustment must be the percentage
24 increase, if any, in the state's average weekly wage as
25 adopted by the department over the state's average weekly

1 wage adopted for the previous year or 3%, whichever is less.

2 (6) Notwithstanding subsection (3), beginning July 1,
3 1987, through June 30, ~~1989~~ 1991, the maximum weekly
4 compensation benefits for permanent total disability may not
5 exceed the state's average weekly wage of \$299 established
6 July 1, 1986."

7 **SECTION 6. SECTION 39-71-703, MCA, IS AMENDED TO READ:**

8 "39-71-703. Compensation for permanent partial
9 disability -- impairment awards and wage supplements. (1)
10 The benefits available for permanent partial disability are
11 impairment awards and wage supplements. A worker who has
12 reached maximum healing and is not eligible for permanent
13 total disability benefits but who has a medically determined
14 physical restriction as a result of a work-related injury
15 may be eligible for an impairment award and wage supplement
16 benefits as follows:

17 (a) The following procedure must be followed for an
18 impairment award:

19 (i) Each percentage point of impairment is compensated
20 in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages
21 received at the time of the injury, subject to a maximum
22 compensation rate of one-half of the state's average weekly
23 wage at the time of injury.

24 (ii) When a worker reaches maximum healing, an
25 impairment rating is rendered by one or more physicians as

1 provided for in 39-71-711. Impairment benefits are payable
2 beginning the date of maximum healing.

3 (iii) An impairment award may be paid biweekly or in a
4 lump sum, at the discretion of the worker. Lump sums paid
5 for impairments are not subject to the requirements set
6 forth in 39-71-741, except that lump-sum conversions for
7 benefits not accrued may be reduced to present value at the
8 rate set forth by the department in 39-71-741(5).

9 (iv) If a worker becomes eligible for permanent total
10 disability benefits, the insurer may recover any lump-sum
11 advance paid to a claimant for impairment, as set forth in
12 39-71-741(5). Such right of recovery does not apply to
13 lump-sum benefits paid for the period prior to claimant's
14 eligibility for permanent total disability benefits.

15 (v) If a worker suffers additional injury, an
16 impairment award payable for the additional injury must be
17 reduced by the amount of a previous award paid for
18 impairment to the same site on the body.

19 (b) The following procedure must be followed for a
20 wage supplement:

21 (i) A worker must be compensated in weekly benefits
22 equal to $66 \frac{2}{3}\%$ of the difference between the worker's
23 actual wages received at the time of the injury and the
24 wages the worker is qualified to earn in the worker's job
25 pool, subject to a maximum compensation rate of one-half the

1 state's average weekly wage at the time of injury.

2 (ii) Eligibility for wage supplement benefits begins at
3 maximum healing and terminates at the expiration of 500
4 weeks minus the number of weeks for which a worker's
5 impairment award is payable, subject to 39-71-710. A
6 worker's failure to sustain a wage loss compensable under
7 subsection (1)(b)(i) does not extend the period of
8 eligibility. However, if a worker becomes eligible for
9 temporary total disability, permanent total disability, or
10 total rehabilitation benefits after reaching maximum
11 healing, the eligibility period for wage supplement benefits
12 is extended by any period for which a worker is compensated
13 by those benefits after reaching maximum healing.

14 (2) The determination of permanent partial disability
15 must be supported by a preponderance of medical evidence.

16 (3) Notwithstanding subsection (1), beginning July 1,
17 1987, through June 30, ~~1989~~ 1991, the maximum weekly
18 compensation benefits for permanent partial disability may
19 not exceed \$149.50, which is one-half the state's average
20 weekly wage established July 1, 1986."

21 **SECTION 7. SECTION 39-71-704, MCA, IS AMENDED TO READ:**

22 "39-71-704. Payment of medical, hospital, and related
23 services -- fee schedules and hospital rates. (1) In
24 addition to the compensation provided by this chapter and as
25 an additional benefit separate and apart from compensation,

1 the following must be furnished:

2 (a) After the happening of the injury, the insurer
3 shall furnish, without limitation as to length of time or
4 dollar amount, reasonable services by a physician or
5 surgeon, reasonable hospital services and medicines when
6 needed, and such other treatment as may be approved by the
7 department for the injuries sustained.

8 (b) The insurer shall replace or repair prescription
9 eyeglasses, prescription contact lenses, prescription
10 hearing aids, and dentures that are damaged or lost as a
11 result of an injury, as defined in 39-71-119, arising out of
12 and in the course of employment.

13 (c) The insurer shall reimburse a worker for
14 reasonable travel expenses incurred in travel to a medical
15 provider for treatment of an injury pursuant to rules
16 adopted by the department. Reimbursement must be at the
17 rates allowed for reimbursement of travel by state
18 employees.

19 (2) A relative value fee schedule for medical,
20 chiropractic, and paramedical services provided for in this
21 chapter, excluding hospital services, must be established
22 annually by the department and become effective in January
23 of each year. The maximum fee schedule must be adopted as a
24 relative value fee schedule of medical, chiropractic, and
25 paramedical services, with unit values to indicate the

1 relative relationship within each grouping of specialties.
 2 Medical fees must be based on the median fees as billed to
 3 the state fund during the year preceding the adoption of the
 4 schedule. The state fund shall report fees billed in the
 5 form and at the times required by the department. The
 6 department shall adopt rules establishing relative unit
 7 values, groups of specialties, the procedures insurers must
 8 use to pay for services under the schedule, and the method
 9 of determining the median of billed medical fees. These
 10 rules must be modeled on the 1974 revision of the 1969
 11 California Relative Value Studies.

12 (3) Beginning January 1, 1988, the department shall
 13 establish rates for hospital services necessary for the
 14 treatment of injured workers. Approved rates must be in
 15 effect for a period of 12 months from the date of approval.
 16 The department may coordinate this ratesetting function with
 17 other public agencies that have similar responsibilities.

18 (4) Notwithstanding subsection (2), beginning January
 19 1, 1988, and ~~ending January 1, 1990~~ through December 31,
 20 1991, the maximum fees payable by insurers must be limited
 21 to the relative value fee schedule established in January
 22 1987. Notwithstanding subsection (3), beginning January 1,
 23 1988, through December 31, 1991, the hospital rates payable
 24 by insurers must be limited to those set in January 1988,
 25 ~~until December 31, 1989.~~"

1 **SECTION 8. SECTION 39-71-721, MCA, IS AMENDED TO READ:**

2 **"39-71-721. Compensation for injury causing death --**
 3 **limitation. (1) (a) If an injured employee dies and the**
 4 **injury was the proximate cause of such death, then the**
 5 **beneficiary of the deceased is entitled to the same**
 6 **compensation as though the death occurred immediately**
 7 **following the injury. A beneficiary's eligibility for**
 8 **benefits commences after the date of death, and the benefit**
 9 **level is established as set forth in subsection (2).**

10 (b) The insurer is entitled to recover any
 11 overpayments or compensation paid in a lump sum to a worker
 12 prior to death but not yet recouped. The insurer shall
 13 recover such payments from the beneficiary's biweekly
 14 payments as provided in 39-71-741(5).

15 (2) To beneficiaries as defined in 39-71-116(2)(a)
 16 through (2)(d), weekly compensation benefits for an injury
 17 causing death are 66 2/3% of the decedent's wages. The
 18 maximum weekly compensation benefit may not exceed the
 19 state's average weekly wage at the time of injury. The
 20 minimum weekly compensation benefit is 50% of the state's
 21 average weekly wage, but in no event may it exceed the
 22 decedent's actual wages at the time of his death.

23 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 24 (2)(f), weekly benefits must be paid to the extent of the
 25 dependency at the time of the injury, subject to a maximum

1 of 66 2/3% of the decedent's wages. The maximum weekly
 2 compensation may not exceed the state's average weekly wage
 3 at the time of injury.

4 (4) If the decedent leaves no beneficiary as defined
 5 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
 6 to the decedent's surviving parent or parents.

7 (5) If any beneficiary of a deceased employee dies,
 8 the right of such beneficiary to compensation under this
 9 chapter ceases. Death benefits must be paid to a surviving
 10 spouse for 500 weeks subsequent to the date of the deceased
 11 employee's death or until the spouse's remarriage, whichever
 12 occurs first. After benefit payments cease to a surviving
 13 spouse, death benefits must be paid to beneficiaries, if
 14 any, as defined in 39-71-116(2)(b) through (2)(d).

15 (6) In all cases, benefits must be paid to
 16 beneficiaries, as defined in 39-71-116(2).

17 (7) Benefits paid under this section may not be
 18 adjusted for cost of living as provided in 39-71-702.

19 (8) Notwithstanding subsections (2) and (3), beginning
 20 July 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 21 compensation benefits for injury causing death may not
 22 exceed the state's average weekly wage of \$299 established
 23 July 1, 1986. Beginning July 1, 1987, through June 30, ~~1989~~
 24 1991, the minimum weekly compensation for injury causing
 25 death shall be \$149.50, which is 50% of the state's average

1 weekly wage established July 1, 1986, but in no event may it
 2 exceed the decedent's actual wages at the time of death."

3 **Section 9.** Section 39-71-1024, MCA, is amended to
 4 read:

5 "39-71-1024. Wage supplement and partial
 6 rehabilitation benefits. (1) A worker who is in a
 7 rehabilitation program under 39-71-1019 in accordance with
 8 and for the maximum duration established by a final order of
 9 determination by the department is eligible to receive the
 10 following benefits:

11 (a) wage supplement benefits as provided in 39-71-703
 12 but with the rate based on 66 2/3% of the worker's actual
 13 wages received at the time of injury, subject to a maximum
 14 of one-half the state's average weekly wage; and

15 (b) a partial rehabilitation benefit that, together
 16 with the wage supplement provided in subsection (1)(a),
 17 provides the worker with weekly benefits equal to the
 18 worker's temporary total disability rate.

19 (2) After the worker completes the rehabilitation
 20 program, the worker's further eligibility, if any, for wage
 21 supplement benefits under 39-71-703 is reduced by the number
 22 of weeks of wage supplement benefits received under
 23 subsection (1)(a).

24 (3) Notwithstanding subsection (1)(a), beginning July
 25 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly

1 compensation benefit under that subsection may not exceed
2 \$149.50, which is one-half the state's weekly wage
3 established July 1, 1986."

4 **Section 10.** Section 39-71-2504, MCA, is amended to
5 read:

6 "39-71-2504. (Temporary) Workers' compensation payroll
7 and---wage tax account. (1) There is an a workers'
8 compensation payroll-and--wage tax account in the state
9 special revenue fund.

10 (2) All collections of the tax, and interest and
11 penalties on the tax, AND REVENUE APPROPRIATED TO THE
12 ACCOUNT UNDER [SECTION 2] must be deposited in the account
13 and are statutorily appropriated, as provided in 17-7-502,
14 to the department to be used to reduce the unfunded
15 liability in the state fund. (Terminates June 30,
16 1991--sec. 10, Ch. 664, L. 1987.)"

17 NEW SECTION. SECTION 11. APPROPRIATION. THERE IS
18 APPROPRIATED \$20 MILLION FROM THE GENERAL FUND TO THE
19 WORKERS' COMPENSATION TAX ACCOUNT IN THE STATE SPECIAL
20 REVENUE FUND FOR FISCAL YEAR 1990 TO BE USED TO REDUCE THE
21 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
22 INSURANCE FUND.

23 NEW SECTION. --Section 11--Construction-----of-----law-
24 Nothing-in-39-71-2501-through-39-71-2504-may-be-construed-to
25 conflict-with-the-provisions-of-39-71-406-

1 NEW SECTION. SECTION 12. EXEMPTION FROM NOTICE
2 REQUIREMENT. THE 30-DAY NOTICE REQUIREMENT IMPOSED UNDER
3 39-71-2304(1) DOES NOT APPLY TO RATE CHANGES EFFECTIVE JULY
4 1, 1989, MADE IN RESPONSE TO THE PROVISIONS OF [THIS ACT].

5 NEW SECTION. Section 13. Severability. If a part of
6 [this act] is invalid, all valid parts that are severable
7 from the invalid part remain in effect. If a part of [this
8 act] is invalid in one or more of its applications, the part
9 remains in effect in all valid applications that are
10 severable from the invalid applications.

11 NEW SECTION. SECTION 14. CODIFICATION. [SECTION 3]
12 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15,
13 CHAPTER 31, AND THE PROVISIONS OF TITLE 15, CHAPTER 31,
14 APPLY TO [SECTION 3].

15 NEW SECTION. SECTION 15. APPLICABILITY. [SECTIONS 1
16 THROUGH 3] APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER
17 31, 1989.

18 NEW SECTION. --Section 13--Retroactive---applicability-
19 {Section--9}--applies--retroactively--within-the-meaning-of
20 1-2-1997-to-all-employee-wages-earned-on-or--after--July--17
21 1989-

22 NEW SECTION. --SECTION 11--COORDINATION.----IF---SENATE
23 BILL-NO--14-IS-NOT-PASSED-AND-APPROVED-OR-IF-SENATE-BILL-NO-
24 14-IS-PASSED-AND-APPROVED--BUT--DOES--NOT--PROVIDE--FOR--THE
25 ACCELERATED-COLLECTION-OF-CORPORATE-INCOME-AND-LICENSE-TAXES

1 ~~WITH THE DEPOSIT OF AT LEAST \$15 MILLION OF ACCELERATED~~
2 ~~COLLECTIONS IN THE GENERAL FUND, THIS ACT IS VOID.~~

3 NEW SECTION. **Section 16.** Effective date. [This act],
4 section 57, Chapter 83, Laws of 1989, and section 23,
5 Chapter 613, Laws of 1989, are IS effective on passage and
6 approval of {this act}.

7 NEW SECTION. **Section 15.** Termination. [Section 11]
8 terminates June 30, 1991.

-End-

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS'
COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO
THE CURRENT EMPLOYER PAYROLL TAX REVISE THE WORKERS'
COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
APPROPRIATE \$20 MILLION FROM THE GENERAL FUND, TO REDUCE THE
UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
INSURANCE FUND; TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY
ALL TAXPAYERS SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO
HAVE ANNUAL STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO
PROVIDE FOR INTEREST PENALTIES FOR UNDERPAYMENT; TO EXEMPT
RATE CHANGES MADE IN RESPONSE TO THIS ACT FROM THE 30-DAY
NOTICE REQUIREMENT; AMENDING SECTIONS 39-71-701 THROUGH
39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH
SECTION SECTIONS 15-31-101, 15-31-502, 39-71-701 THROUGH

39-71-704, 39-71-721, 39-71-1024, AND 39-71-2504, MCA;
PROVIDING A COORDINATION PROVISION; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A
RETROACTIVE APPLICABILITY DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 39-71-701, MCA, is amended to read:
"39-71-701. Compensation for temporary total
disability. (1) Subject to the limitation in 39-71-736, a
worker is eligible for temporary total disability benefits
when the worker suffers a total loss of wages as a result of
an injury and until the worker reaches maximum healing.
(2) The determination of temporary total disability
must be supported by a preponderance of medical evidence.
(3) Weekly compensation benefits for injury-producing
temporary total disability shall be 66 2/3% of the wages
received at the time of the injury. The maximum weekly
compensation benefits shall may not exceed the state's
average weekly wage at the time of injury. Temporary total
disability benefits shall must be paid for the duration of
the worker's temporary disability. The weekly benefit amount
may not be adjusted for cost of living as provided in
39-71-702(5).
(4) In cases where it is determined that periodic
disability benefits granted by the Social Security Act are

1 payable because of the injury, the weekly benefits payable
2 under this section are reduced, but not below zero, by an
3 amount equal, as nearly as practical, to one-half the
4 federal periodic benefits for such week, which amount is to
5 be calculated from the date of the disability social
6 security entitlement;

7 {5} Notwithstanding subsection {3}, beginning July 1,
8 1987, through June 30, 1989, 1991, weekly compensation
9 benefits for temporary total disability may not exceed the
10 state's average weekly wage of \$299 established July 1,
11 1986.*

12 **Section 2.** Section 39-71-702, MCA, is amended to read:
13 39-71-702. Compensation for permanent total
14 disability. {1} If a worker is no longer temporarily
15 totally disabled and is unable to return to work due to
16 injury, the worker is eligible for permanent total
17 disability benefits. At an insurer's request, an evaluation
18 of all options under 39-71-1012 must be made before
19 permanent total disability status is determined. Permanent
20 total disability benefits must be paid for the duration of
21 the worker's permanent total disability, subject to
22 39-71-710 and 39-71-1026.

23 {2} The determination of permanent total disability
24 must be supported by a preponderance of medical evidence.

25 {3} Weekly compensation benefits for an injury

1 resulting in permanent total disability shall be 66-2/3% of
2 the wages received at the time of the injury. The maximum
3 weekly compensation benefits shall not exceed the state's
4 average weekly wage at the time of injury.

5 {4} In cases where it is determined that periodic
6 disability benefits granted by the Social Security Act are
7 payable because of the injury, the weekly benefits payable
8 under this section are reduced, but not below zero, by an
9 amount equal, as nearly as practical, to one-half the
10 federal periodic benefits for such week, which amount is to
11 be calculated from the date of the disability social
12 security entitlement;

13 {5} A worker's benefit amount must be adjusted for a
14 cost-of-living increase on the next July 1 after 104 weeks
15 of permanent total disability benefits have been paid and on
16 each succeeding July 1. A worker may not receive more than
17 10 such adjustments. The adjustment must be the percentage
18 increase, if any, in the state's average weekly wage as
19 adopted by the department over the state's average weekly
20 wage adopted for the previous year or 3%, whichever is less.

21 {6} Notwithstanding subsection {3}, beginning July 1,
22 1987, through June 30, 1989, 1991, the maximum weekly
23 compensation benefits for permanent total disability may not
24 exceed the state's average weekly wage of \$299 established
25 July 1, 1986.*

1 **Section 3.** ~~Section 39-71-703, MCA, is amended to read:~~
2 ~~"39-71-703. Compensation for permanent partial~~
3 ~~disability impairment awards and wage supplements. (i)~~
4 ~~The benefits available for permanent partial disability are~~
5 ~~impairment awards and wage supplements. A worker who has~~
6 ~~reached maximum healing and is not eligible for permanent~~
7 ~~total disability benefits but who has a medically determined~~
8 ~~physical restriction as a result of a work-related injury~~
9 ~~may be eligible for an impairment award and wage supplement~~
10 ~~benefits as follows:~~
11 ~~(a) The following procedure must be followed for an~~
12 ~~impairment award:~~
13 ~~(i) Each percentage point of impairment is compensated~~
14 ~~in an amount equal to 5 weeks times 66-2/3% of the wages~~
15 ~~received at the time of the injury, subject to a maximum~~
16 ~~compensation rate of one-half of the state's average weekly~~
17 ~~wage at the time of injury.~~
18 ~~(ii) When a worker reaches maximum healing, an~~
19 ~~impairment rating is rendered by one or more physicians as~~
20 ~~provided for in 39-71-711. Impairment benefits are payable~~
21 ~~beginning the date of maximum healing.~~
22 ~~(iii) An impairment award may be paid biweekly or in a~~
23 ~~lump sum, at the discretion of the worker. Lump sums paid~~
24 ~~for impairments are not subject to the requirements set~~
25 ~~forth in 39-71-741, except that lump sum conversions for~~

1 ~~benefits not accrued may be reduced to present value at the~~
2 ~~rate set forth by the department in 39-71-741(5).~~
3 ~~(iv) If a worker becomes eligible for permanent total~~
4 ~~disability benefits, the insurer may recover any lump sum~~
5 ~~advance paid to a claimant for impairment, as set forth in~~
6 ~~39-71-741(5). Such right of recovery does not apply to~~
7 ~~lump sum benefits paid for the period prior to claimant's~~
8 ~~eligibility for permanent total disability benefits.~~
9 ~~(v) If a worker suffers additional injury, an~~
10 ~~impairment award payable for the additional injury must be~~
11 ~~reduced by the amount of a previous award paid for~~
12 ~~impairment to the same site on the body.~~
13 ~~(b) The following procedure must be followed for a~~
14 ~~wage supplement:~~
15 ~~(i) A worker must be compensated in weekly benefits~~
16 ~~equal to 66-2/3% of the difference between the worker's~~
17 ~~actual wages received at the time of the injury and the~~
18 ~~wages the worker is qualified to earn in the worker's job~~
19 ~~pool, subject to a maximum compensation rate of one-half the~~
20 ~~state's average weekly wage at the time of injury.~~
21 ~~(ii) Eligibility for wage supplement benefits begins at~~
22 ~~maximum healing and terminates at the expiration of 500~~
23 ~~weeks minus the number of weeks for which a worker's~~
24 ~~impairment award is payable, subject to 39-71-710. A~~
25 ~~worker's failure to sustain a wage loss compensable under~~

1 subsection---(1)(b)(1)---does---not---extend---the---period---of
 2 eligibility;---However,---if---a---worker---becomes---eligible---for
 3 temporary---total---disability,---permanent---total---disability,---or
 4 total---rehabilitation---benefits---after---reaching---maximum
 5 healing,---the---eligibility---period---for---wage---supplement---benefits
 6 is---extended---by---any---period---for---which---a---worker---is---compensated
 7 by---those---benefits---after---reaching---maximum---healing;

8 (2)---The---determination---of---permanent---partial---disability
 9 must---be---supported---by---a---preponderance---of---medical---evidence;

10 (3)---Notwithstanding---subsection---(1),---beginning---July---17
 11 1987,---through---June---30,---1989---1991,---the---maximum---weekly
 12 compensation---benefits---for---permanent---partial---disability---may
 13 not---exceed---\$149,507,---which---is---one---half---the---state's---average
 14 weekly---wage---established---July---17,---1986."

15 **Section 4.**---Section 39-71-704, MCA, is amended to read:

16 "39-71-704.---Payment---of---medical,---hospital,---and---related
 17 services---fee---schedules---and---hospital---rates;---(1)---In
 18 addition---to---the---compensation---provided---by---this---chapter---and---as
 19 an---additional---benefit---separate---and---apart---from---compensation,
 20 the---following---must---be---furnished:

21 (a)---After---the---happening---of---the---injury,---the---insurer
 22 shall---furnish,---without---limitation---as---to---length---of---time---or
 23 dollar---amount,---reasonable---services---by---a---physician---or
 24 surgeon,---reasonable---hospital---services---and---medicines---when
 25 needed,---and---such---other---treatment---as---may---be---approved---by---the

1 department---for---the---injuries---sustained;

2 (b)---The---insurer---shall---replace---or---repair---prescription
 3 eyeglasses,---prescription---contact---lenses,---prescription
 4 hearing---aids,---and---dentures---that---are---damaged---or---lost---as---a
 5 result---of---an---injury,---as---defined---in---39-71-119,---arising---out---of
 6 and---in---the---course---of---employment;

7 (c)---The---insurer---shall---reimburse---a---worker---for
 8 reasonable---travel---expenses---incurred---in---travel---to---a---medical
 9 provider---for---treatment---of---an---injury---pursuant---to---rules
 10 adopted---by---the---department;---Reimbursement---must---be---at---the
 11 rates---allowed---for---reimbursement---of---travel---by---state
 12 employees;

13 (2)---A---relative---value---fee---schedule---for---medical,
 14 chiropractic,---and---paramedical---services---provided---for---in---this
 15 chapter,---excluding---hospital---services,---must---be---established
 16 annually---by---the---department---and---become---effective---in---January
 17 of---each---year;---The---maximum---fee---schedule---must---be---adopted---as---a
 18 relative---value---fee---schedule---of---medical,---chiropractic,---and
 19 paramedical---services,---with---unit---values---to---indicate---the
 20 relative---relationship---within---each---grouping---of---specialties;
 21 Medical---fees---must---be---based---on---the---median---fees---as---billed---to
 22 the---state---fund---during---the---year---preceding---the---adoption---of---the
 23 schedule;---The---state---fund---shall---report---fees---billed---in---the
 24 form---and---at---the---times---required---by---the---department;---The
 25 department---shall---adopt---rules---establishing---relative---unit

1 values, groups of specialties, the procedures insurers must
2 use to pay for services under the schedule, and the method
3 of determining the median of billed medical fees. These
4 rules must be modeled on the 1974 revision of the 1969
5 California Relative Value Studies.

6 (3) Beginning January 1, 1980, the department shall
7 establish rates for hospital services necessary for the
8 treatment of injured workers. Approved rates must be in
9 effect for a period of 12 months from the date of approval.
10 The department may coordinate this ratesetting function with
11 other public agencies that have similar responsibilities.

12 (4) Notwithstanding subsection (2), beginning January
13 1, 1980, and ending January 1, 1990, through December 31,
14 1991, the maximum fees payable by insurers must be limited
15 to the relative value fee schedule established in January
16 1987. Notwithstanding subsection (3), beginning January 1,
17 1988, through December 31, 1991, the hospital rates payable
18 by insurers must be limited to those set in January 1980
19 until December 31, 1989.*

20 **Section 5.** Section 39-71-721, MCA, is amended to read:
21 *39-71-721. Compensation for injury causing death ---
22 limitation. (1) (a) If an injured employee dies and the
23 injury was the proximate cause of such death, then the
24 beneficiary of the deceased is entitled to the same
25 compensation as though the death occurred immediately

1 following the injury. A beneficiary's eligibility for
2 benefits commences after the date of death, and the benefit
3 level is established as set forth in subsection (2).

4 (b) The insurer is entitled to recover any
5 overpayments or compensation paid in a lump sum to a worker
6 prior to death but not yet recouped. The insurer shall
7 recover such payments from the beneficiary's biweekly
8 payments as provided in 39-71-741(5).

9 (2) To beneficiaries as defined in 39-71-116(2)(a)
10 through (2)(d), weekly compensation benefits for an injury
11 causing death are 66-2/3% of the decedent's wages. The
12 maximum weekly compensation benefit may not exceed the
13 state's average weekly wage at the time of injury. The
14 minimum weekly compensation benefit is 50% of the state's
15 average weekly wage, but in no event may it exceed the
16 decedent's actual wages at the time of his death.

17 (3) To beneficiaries as defined in 39-71-116(2)(e) and
18 (2)(f), weekly benefits must be paid to the extent of the
19 dependency at the time of the injury, subject to a maximum
20 of 66-2/3% of the decedent's wages. The maximum weekly
21 compensation may not exceed the state's average weekly wage
22 at the time of injury.

23 (4) If the decedent leaves no beneficiary as defined
24 in 39-71-116(2), a lump sum payment of \$3,000 must be paid
25 to the decedent's surviving parent or parents.

1 {5}--if-any-beneficiary-of-a--deceased--employee--dies,
 2 the--right--of--such--beneficiary-to-compensation-under-this
 3 chapter--ceases.-Death-benefits-must-be-paid-to--a--surviving
 4 spouse--for-500-weeks-subsequent-to-the-date-of-the-deceased
 5 employee's-death-or-until-the-spouse's-remarriage,whichever
 6 occurs-first.-After-benefit-payments- cease--to--a--surviving
 7 spouse,--death--benefits--must--be-paid-to-beneficiaries,if
 8 any,--as-defined-in-39-71-116(2)(b)-through-(2)(d):

9 {6}--In--all--cases,---benefits---must---be---paid---to
 10 beneficiaries,as-defined-in-39-71-116(2):

11 {7}--Benefits--paid--under--this--section--may--not--be
 12 adjusted-for-cost-of-living-as-provided-in-39-71-702:

13 {8}--Notwithstanding-subsections-(2)-and-(3),beginning
 14 July-17-1987,through-June-30,1989-1991,--the-maximum-weekly
 15 compensation-benefits--for--injury--causing--death--may--not
 16 exceed--the--state's-average-weekly-wage-of-\$299-established
 17 July-17-1986.-Beginning-July-17-1987,through-June-30,--1989
 18 1991,--the--minimum--weekly--compensation-for-injury-causing
 19 death-shall-be-\$149.50,which-is-50%--of-the-state's--average
 20 weekly-wage-established-July-17-1986,--but-in-no-event-may-it
 21 exceed-the-decedent's-actual-wages-at-the-time-of-death.*

22 **Section 6.**--Section--39-71-1024,--MCA,--is--amended--to
 23 read:

24 *39-71-1024,--Wage-----supplement-----and-----partial
 25 rehabilitation--benefits,---(1)--A--worker--who--is--in--a

1 rehabilitation-program-under-39-71-1019-in--accordance--with
 2 and-for-the-maximum-duration-established-by-a-final-order-of
 3 determination--by--the-department-is-eligible-to-receive-the
 4 following-benefits:

5 (a)--wage-supplement-benefits-as-provided-in--39-71-703
 6 but--with--the--rate-based-on-66-2/3%--of-the-worker's-actual
 7 wages-received-at-the-time-of-injury,subject-to--a--maximum
 8 of-one-half-the-state's-average-weekly-wage,--and

9 (b)--a--partial--rehabilitation--benefit-that,--together
 10 with-the-wage--supplement--provided--in--subsection--(1)(a),
 11 provides--the--worker--with--weekly--benefits--equal--to-the
 12 worker's-temporary-total-disability-rate:

13 (2)--After--the--worker--completes--the--rehabilitation
 14 program,--the-worker's-further-eligibility,if-any,for-wage
 15 supplement-benefits-under-39-71-703-is-reduced-by-the-number
 16 of--weeks--of--wage--supplement--benefits---received---under
 17 subsection-(1)(a):

18 (3)--Notwithstanding--subsection-(1)(a),beginning-July
 19 17-1987,through-June-30,1989--1991,--the--maximum-weekly
 20 compensation--benefit--under--that-subsection-may-not-exceed
 21 \$149.50,--which--is--one-half--the--state's--weekly--wage
 22 established-July-17-1986.*

23 **Section 7.**--Section--39-71-2501,--MCA,--is--amended--to
 24 read:

25 *39-71-2501,--(Temporary)-Definitions,--AS-used-in-this

1 part, the following definitions apply:

2 {1} "Department" means the department of labor and
3 industry provided for in 2-15-1701 revenue provided for in
4 2-15-1301;

5 {2} "Employee" has the meaning set forth in 39-71-110;

6 {2}{3} "Employer" has the meaning set forth in
7 39-71-117;

8 {3}{4} "Payroll" means the payroll of an employer for
9 each of the calendar quarters ending March 31, June 30,
10 September 30, and December 31 for all employments covered
11 under 39-71-401;

12 {4}{5} "State fund" means the state compensation
13 mutual insurance fund;

14 {5}{6} "Tax" means the workers' compensation payroll
15 and wage tax provided for in 39-71-2503;

16 {6}{7} "Tax account" means the workers' compensation
17 payroll and wage tax account created by 39-71-2504;

18 {8} "Wages" has the meaning set forth in 39-71-123;
19 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)*

20 **Section 8.** Section 39-71-2502, MCA, is amended to
21 read:

22 *39-71-2502. (Temporary) Findings and purpose. (1)
23 Based on current liabilities and actuarial analysis, an
24 unfunded liability presently exists in the state fund and is
25 projected to increase. While legislative action is required

1 to correct the causes of the unfunded liability, those
2 actions will not provide sufficient funds to permit the
3 state fund to pay its existing liabilities and obligations
4 in a timely manner from premium and investment income
5 available to the state fund. Therefore, it is necessary to
6 provide a source other sources of funding for the unfunded
7 liability in addition to premium and investment income.

8 {2} The police power of the state extends to all great
9 public needs. The state, in the exercise of its police
10 power, has determined that it is greatly and immediately
11 necessary to the public welfare to make workers'
12 compensation insurance available to all employers through
13 the state fund as the insurer of last resort, in making this
14 insurance available, the state fund has incurred the
15 unfunded liability described in subsection (1). The burden
16 of this unfunded liability should not be borne solely by
17 those employers who have insured with the state fund because
18 the availability of insurance to all employers through the
19 state fund has benefited all employers who have workers'
20 compensation coverage, nor should this unfunded liability be
21 borne by employers only. Therefore, all employers who have
22 employments and employees covered by the workers'
23 compensation laws should share in the cost of the unfunded
24 liability;

25 {3} The purpose of this part is to provide a

1 supplemental--source--sources--of--financing--for--the--unfunded
 2 liability;--(Terminates--June--30,--1991--sec--107--Ch--664,--B--
 3 1987.)"

4 **Section 0.**--Section--39-71-2503,--MCA,--is--amended--to
 5 read:

6 *39-71-2503.---(Temporary) Workers' compensation payroll
 7 and wage tax-----penalty.---(1)(a) There--is--a--workers'
 8 compensation--payroll--and--wage--tax. The tax must be imposed
 9 on:

10 (1) each employer a workers' compensation--payroll--tax
 11 in--an--amount--equal--to--0.3%--of--the--employer's--payroll--in--the
 12 preceding--calendar--quarter--for--all--employments--covered--under
 13 39-71-401; and

14 (2) each employee in an amount equal to 0.3% of the
 15 employee's--wages--in--the--preceding--calendar--quarter--for--all
 16 employments--covered--under--39-71-401;

17 (b) For the purpose of this tax, a sole proprietor
 18 shall--pay--only--the--employer's--payroll--tax--on--his--own
 19 employment;

20 (2) This payroll The tax must be used to reduce the
 21 unfunded liability in the state fund.

22 (b)(3) The tax is due and payable 30 days following
 23 the end of each calendar quarter, commencing with the
 24 quarter ending September 30, 1987.

25 (c)(4) The tax must be paid to and collected by the

1 department. The department shall prepare appropriate returns
 2 to be filed by each employer or insurer with the payment of
 3 the tax. Each employer shall withhold from an employee's
 4 wages the wage tax provided for in subsection (1)(a)(ii) and
 5 pay it to the department.

6 (d)(5) Each employer shall maintain the records the
 7 department requires concerning the employer's payroll. The
 8 records are subject to inspection by the department and its
 9 employees and agents during regular business hours.

10 (e)(6) Taxes not paid when due bear interest at the
 11 rate of 1% a month. The employer shall also pay a penalty
 12 equal to 10% of the amount of the delinquent tax.

13 (2)(7) All collections of the tax are appropriated to
 14 and must be deposited as received in the tax account. The
 15 tax is in addition to any other tax or fee assessed against
 16 employers and employees subject to the tax.

17 (3)(8) Sections 15-35-112 through 15-35-114,
 18 15-35-121, and 15-35-122 regarding deficiency assessments,
 19 credits for overpayment, statute of limitations, penalties,
 20 and department rulemaking authority apply to the tax, to
 21 employers and employees, and to the department. (Terminates
 22 June 30, 1991--sec--107--Ch--664,--B--1987.)"

23 **SECTION 1. SECTION 15-31-101, MCA, IS AMENDED TO READ:**

24 "15-31-101. Organizations subject to tax. (1) The term
 25 "corporation" includes associations, joint-stock companies,

1 common-law trusts and business trusts which do business in
 2 an organized capacity, and all other corporations whether
 3 created, organized, or existing under and pursuant to the
 4 laws, agreements, or declarations of trust of any state,
 5 country, or the United States.

6 (2) The terms "engaged in business" and "doing
 7 business" both mean actively engaging in any transaction for
 8 the purpose of financial or pecuniary gain or profit.

9 (3) Except as provided in 15-31-103 or 33-2-705(4) or
 10 as may be otherwise specifically provided, every corporation
 11 engaged in business in the state of Montana shall annually
 12 pay to the state treasurer as a license fee for the
 13 privilege of carrying on business in this state such
 14 percentage or percentages of its total net income for the
 15 preceding taxable year at the rate hereinafter set forth. In
 16 the case of corporations having income from business
 17 activity which is taxable both within and without this
 18 state, the license fee shall be measured by the net income
 19 derived from or attributable to Montana sources as
 20 determined under part 3. This Except as provided in
 21 15-31-502, this tax is due and payable on the 15th day of
 22 the 5th month following the close of the taxable year of the
 23 corporation; however, the tax becomes a lien as provided in
 24 this chapter on the last day of the taxable year in which
 25 the income was earned and is for the privilege of carrying

1 on business in this state for the taxable year in which the
 2 income was earned.

3 (4) Every bank organized under the laws of the state
 4 of Montana, of any other state, or of the United States and
 5 every savings and loan association organized under the laws
 6 of this state or of the United States is subject to the
 7 Montana corporation license tax provided for under this
 8 chapter. For taxable years beginning on and after January 1,
 9 1972, this subsection is effective in accordance with Public
 10 Law 91-156, section 2 (12 U.S.C. 548)."

11 **SECTION 2. SECTION 15-31-502, MCA, IS AMENDED TO READ:**

12 ~~"15-31-502. Assessment and payment of tax--penalty,~~
 13 ~~and--interest -- estimated tax payment. (1) All taxpayers~~
 14 ~~shall compute the amount of tax payable under this chapter~~
 15 ~~and shall remit such the amount to the department of revenue~~
 16 ~~on or before the 15th day of the 5th month following the~~
 17 ~~close of the taxable period. if-the-tax-is-not-paid--on--or~~
 18 ~~before--the--due--date, there shall be assessed a penalty of~~
 19 ~~10% of the amount of the tax unless it--is--shown--that--the~~
 20 ~~failure--was--due--to--reasonable--cause--and--not--due--to--neglect.~~
 21 ~~if-any-tax-due-under-this-chapter-is-not-paid-when--due,--by~~
 22 ~~reason--of--extension--granted--or--otherwise, interest shall be~~
 23 ~~added thereto at the rate of 12% per annum from the due date~~
 24 ~~until paid.~~

25 (2) Each corporation shall make estimated tax payments

1 if its annual estimated tax can reasonably be expected to be
2 \$5,000 or more. The estimated payments must be made in
3 installments as follows:

4 (a) If the \$5,000 threshold is met or The following percentages of
5 exceeded: the estimated tax must be
6 paid on the 15th day of the
7 applicable months:

	<u>4th</u>	<u>6th</u>	<u>9th</u>	<u>12th</u>
	<u>month</u>	<u>month</u>	<u>month</u>	<u>month</u>
8 <u>Before the 1st day of the</u>				
9 <u>4th month of the taxable</u>				
10 <u>year:</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>
11 <u>After the last day of the</u>				
12 <u>3rd month and before the</u>				
13 <u>1st day of the 6th month of</u>				
14 <u>the taxable year:</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	
15 <u>After the last day of the</u>				
16 <u>5th month and before the</u>				
17 <u>1st day of the 9th month of</u>				
18 <u>the taxable year:</u>		<u>50%</u>	<u>50%</u>	
19 <u>After the last day of the</u>				
20 <u>8th month and before the</u>				
21 <u>12th month of the taxable</u>				
22 <u>year:</u>				<u>100%</u>

23 (b) If after paying any installment of estimated tax

1 the taxpayer makes a new estimate, the amount of each
2 installment, if any, is the amount that would have been paid
3 if the new estimate had been made when the first estimate
4 for the taxable year was made, increased or decreased, as
5 the case may be, by the amount computed by dividing:

- 6 (i) the difference between:
- 7 (A) the amount of estimated tax required to be paid
- 8 before the date on which the new estimate was made; and
- 9 (B) the amount of estimated tax that would have been
- 10 required to be paid before that date if the new estimate had
- 11 been made when the first estimate was made:

12 (ii) by the number of installments remaining to be paid
13 on or after the date on which the new estimate was made.

14 (3) The application of this section to taxable years
15 of less than 12 months must be in accordance with rules
16 adopted by the department.

17 (4) At the election of the corporation, any
18 installment of the estimated tax may be paid before the date
19 prescribed for its payment."

20 NEW SECTION. SECTION 3. ESTIMATED PAYMENTS --
21 INTEREST PENALTY -- TAX RETURNS -- PENALTY -- INTEREST. (1)
22 FOR CORPORATIONS FAILING TO MAKE ESTIMATED PAYMENTS
23 ACCORDING TO THE SCHEDULE PROVIDED IN 15-31-502(2), THERE IS
24 ASSESSED A 20% PER ANNUM UNDERPAYMENT INTEREST PENALTY
25 CALCULATED AS FOLLOWS:

1 (A) FOR PURPOSES OF THIS SUBSECTION (A), THE AMOUNT OF
 2 UNDERPAYMENT IS IN EXCESS OF THE AMOUNT OF THE INSTALLMENT
 3 THAT WOULD BE REQUIRED TO BE PAID IF THE ESTIMATED TAX WERE
 4 EQUAL TO 80% OF THE TAX SHOWN ON THE RETURN FOR THE TAXABLE
 5 YEAR OR, IF NO RETURN WAS FILED, 80% OF THE TAX FOR THE YEAR
 6 OVER THE AMOUNT, IF ANY, OF THE INSTALLMENT PAID ON OR
 7 BEFORE THE LAST DATE PRESCRIBED FOR PAYMENT.

8 (B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
 9 (1)(A), THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT
 10 OF ANY INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF
 11 ALL PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST
 12 DATE PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR
 13 EXCEEDS THE AMOUNT THAT WOULD HAVE BEEN REQUIRED TO BE PAID
 14 ON OR BEFORE THAT DATE IF THE ESTIMATED TAX WERE THE LESSER
 15 OF THE FOLLOWING:

16 (I) THE TAX SHOWN ON THE RETURN OF THE CORPORATION FOR
 17 THE PRECEDING TAXABLE YEAR IF A RETURN SHOWING A LIABILITY
 18 FOR TAX WAS FILED FOR THE PRECEDING TAXABLE YEAR AND THE
 19 PRECEDING YEAR WAS A TAXABLE YEAR OF 12 MONTHS;

20 (II) AN AMOUNT EQUAL TO THE TAX COMPUTED AT THE RATES
 21 APPLICABLE TO THE TAXABLE YEAR, BUT OTHERWISE ON THE BASIS
 22 OF THE FACTS SHOWN ON THE RETURN OF THE CORPORATION FOR, AND
 23 THE LAW APPLICABLE TO, THE PRECEDING TAXABLE YEAR; OR

24 (III) AN AMOUNT EQUAL TO 80% OF THE TAX FOR THE TAXABLE
 25 YEAR, COMPUTED BY PLACING ON AN ANNUALIZED BASIS THE TAXABLE

1 INCOME:

2 (A) FOR THE FIRST 3 MONTHS OF THE TAXABLE YEAR IN THE
 3 CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 4TH
 4 MONTH;

5 (B) FOR THE FIRST 3 MONTHS OR FOR THE FIRST 5 MONTHS
 6 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 7 TO BE PAID IN THE 6TH MONTH;

8 (C) FOR THE FIRST 6 MONTHS OR FOR THE FIRST 8 MONTHS
 9 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 10 TO BE PAID IN THE 9TH MONTH; AND

11 (D) FOR THE FIRST 9 MONTHS OR FOR THE FIRST 11 MONTHS
 12 OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED
 13 TO BE PAID IN THE 12TH MONTH OF THE TAXABLE YEAR.

14 (C) FOR PURPOSES OF SUBSECTION (1)(B)(III), THE
 15 TAXABLE INCOME MUST BE PLACED ON AN ANNUALIZED BASIS BY:

16 (I) MULTIPLYING BY 12 THE TAXABLE INCOME REFERRED TO
 17 IN SUBSECTION (1)(B)(III); AND

18 (II) DIVIDING THE RESULTING AMOUNT BY THE NUMBER OF
 19 MONTHS IN THE TAXABLE YEAR (3, 5, 6, 8, 9, OR 11, AS THE
 20 CASE MAY BE) REFERRED TO IN SUBSECTION (1)(B)(III).

21 (D) NOTWITHSTANDING SUBSECTIONS (1)(A) THROUGH (1)(C),
 22 THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT OF ANY
 23 INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF ALL
 24 PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST DATE
 25 PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR

1 EXCEEDS 80% OF THE AMOUNT DETERMINED UNDER SUBSECTION
2 (1)(E).

3 (E) TO DETERMINE THE AMOUNT UNDER THIS SUBSECTION (E)
4 FOR ANY INSTALLMENT:

5 (I) TAKE THE TAXABLE INCOME FOR ALL MONTHS DURING THE
6 TAXABLE YEAR PRECEDING THE FILING MONTH;

7 (II) DIVIDE THE AMOUNT BY THE BASE PERIOD PERCENTAGE
8 FOR ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE FILING
9 MONTH;

10 (III) DETERMINE THE TAX ON THE AMOUNT CALCULATED UNDER
11 SUBSECTION (1)(E)(II); AND

12 (IV) MULTIPLY THE TAX COMPUTED UNDER SUBSECTION
13 (1)(E)(III) BY THE BASE PERIOD PERCENTAGE FOR THE FILING
14 MONTH AND ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE
15 FILING MONTH.

16 (F) FOR PURPOSES OF THIS SUBSECTION (1):

17 (I) THE BASE PERIOD PERCENTAGE FOR ANY PERIOD OF
18 MONTHS IS THE AVERAGE PERCENTAGE THAT THE TAXABLE INCOME FOR
19 THE CORRESPONDING MONTHS IN EACH OF THE 3 PRECEDING TAXABLE
20 YEARS BEARS TO THE TAXABLE INCOME OF THE 3 PRECEDING YEARS;

21 (II) THE TERM "FILING MONTH" MEANS THE MONTH IN WHICH
22 THE INSTALLMENT IS REQUIRED TO BE PAID;

23 (III) THIS SUBSECTION (1) APPLIES ONLY IF THE BASE
24 PERIOD PERCENTAGE FOR ANY 6 CONSECUTIVE MONTHS OF THE
25 TAXABLE YEAR EQUALS OR EXCEEDS 70%; AND

1 (IV) THE DEPARTMENT OF REVENUE MAY BY RULE PROVIDE FOR
2 THE DETERMINATION OF THE BASE PERIOD PERCENTAGE IN THE CASE
3 OF REORGANIZATIONS, NEW CORPORATIONS, AND OTHER SIMILAR
4 CIRCUMSTANCES.

5 (2) IF THE TAX FOR ANY CORPORATION IS NOT PAID ON OR
6 BEFORE THE DUE DATE OF THE RETURN AS PROVIDED IN
7 15-31-111(2), THERE IS ASSESSED A PENALTY OF 10% OF THE
8 AMOUNT OF THE TAX DUE, UNLESS IT IS SHOWN THAT THE FAILURE
9 WAS DUE TO REASONABLE CAUSE AND NOT TO NEGLECT.

10 (3) IF ANY TAX DUE UNDER THIS SECTION IS NOT PAID WHEN
11 DUE, BY REASON OF EXTENSION GRANTED OR OTHERWISE, INTEREST
12 IS ADDED TO THE TAX DUE AT THE RATE OF 12% A YEAR FROM THE
13 DUE DATE UNTIL PAID.

14 SECTION 4. SECTION 39-71-701, MCA, IS AMENDED TO READ:

15 "39-71-701. Compensation for temporary total
16 disability. (1) Subject to the limitation in 39-71-736, a
17 worker is eligible for temporary total disability benefits
18 when the worker suffers a total loss of wages as a result of
19 an injury and until the worker reaches maximum healing.

20 (2) The determination of temporary total disability
21 must be supported by a preponderance of medical evidence.

22 (3) Weekly compensation benefits for injury producing
23 temporary total disability shall be 66 2/3% of the wages
24 received at the time of the injury. The maximum weekly
25 compensation benefits shall may not exceed the state's

1 average weekly wage at the time of injury. Temporary total
2 disability benefits shall must be paid for the duration of
3 the worker's temporary disability. The weekly benefit amount
4 may not be adjusted for cost of living as provided in
5 39-71-702(5).

6 (4) In cases where it is determined that periodic
7 disability benefits granted by the Social Security Act are
8 payable because of the injury, the weekly benefits payable
9 under this section are reduced, but not below zero, by an
10 amount equal, as nearly as practical, to one-half the
11 federal periodic benefits for such week, which amount is to
12 be calculated from the date of the disability social
13 security entitlement.

14 (5) Notwithstanding subsection (3), beginning July 1,
15 1987, through June 30, 1989 1991, weekly compensation
16 benefits for temporary total disability may not exceed the
17 state's average weekly wage of \$299 established July 1,
18 1986."

19 **SECTION 5. SECTION 39-71-702, MCA, IS AMENDED TO READ:**

20 "39-71-702. Compensation for permanent total
21 disability. (1) If a worker is no longer temporarily totally
22 disabled and is unable to return to work due to injury, the
23 worker is eligible for permanent total disability benefits.
24 At an insurer's request, an evaluation of all options under
25 39-71-1012 must be made before permanent total disability

1 status is determined. Permanent total disability benefits
2 must be paid for the duration of the worker's permanent
3 total disability, subject to 39-71-710 and 39-71-1026.

4 (2) The determination of permanent total disability
5 must be supported by a preponderance of medical evidence.

6 (3) Weekly compensation benefits for an injury
7 resulting in permanent total disability shall be $66 \frac{2}{3}\%$ of
8 the wages received at the time of the injury. The maximum
9 weekly compensation benefits shall not exceed the state's
10 average weekly wage at the time of injury.

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

19 (5) A worker's benefit amount must be adjusted for a
20 cost-of-living increase on the next July 1 after 104 weeks
21 of permanent total disability benefits have been paid and on
22 each succeeding July 1. A worker may not receive more than
23 10 such adjustments. The adjustment must be the percentage
24 increase, if any, in the state's average weekly wage as
25 adopted by the department over the state's average weekly

1 wage adopted for the previous year or 3%, whichever is less.
 2 (6) Notwithstanding subsection (3), beginning July 1,
 3 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 4 compensation benefits for permanent total disability may not
 5 exceed the state's average weekly wage of \$299 established
 6 July 1, 1986."

7 **SECTION 6. SECTION 39-71-703, MCA, IS AMENDED TO READ:**

8 "39-71-703. Compensation for permanent partial
 9 disability -- impairment awards and wage supplements. (1)
 10 The benefits available for permanent partial disability are
 11 impairment awards and wage supplements. A worker who has
 12 reached maximum healing and is not eligible for permanent
 13 total disability benefits but who has a medically determined
 14 physical restriction as a result of a work-related injury
 15 may be eligible for an impairment award and wage supplement
 16 benefits as follows:

17 (a) The following procedure must be followed for an
 18 impairment award:

19 (i) Each percentage point of impairment is compensated
 20 in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages
 21 received at the time of the injury, subject to a maximum
 22 compensation rate of one-half of the state's average weekly
 23 wage at the time of injury.

24 (ii) When a worker reaches maximum healing, an
 25 impairment rating is rendered by one or more physicians as

1 provided for in 39-71-711. Impairment benefits are payable
 2 beginning the date of maximum healing.

3 (iii) An impairment award may be paid biweekly or in a
 4 lump sum, at the discretion of the worker. Lump sums paid
 5 for impairments are not subject to the requirements set
 6 forth in 39-71-741, except that lump-sum conversions for
 7 benefits not accrued may be reduced to present value at the
 8 rate set forth by the department in 39-71-741(5).

9 (iv) If a worker becomes eligible for permanent total
 10 disability benefits, the insurer may recover any lump-sum
 11 advance paid to a claimant for impairment, as set forth in
 12 39-71-741(5). Such right of recovery does not apply to
 13 lump-sum benefits paid for the period prior to claimant's
 14 eligibility for permanent total disability benefits.

15 (v) If a worker suffers additional injury, an
 16 impairment award payable for the additional injury must be
 17 reduced by the amount of a previous award paid for
 18 impairment to the same site on the body.

19 (b) The following procedure must be followed for a
 20 wage supplement:

21 (i) A worker must be compensated in weekly benefits
 22 equal to $66 \frac{2}{3}\%$ of the difference between the worker's
 23 actual wages received at the time of the injury and the
 24 wages the worker is qualified to earn in the worker's job
 25 pool, subject to a maximum compensation rate of one-half the

1 state's average weekly wage at the time of injury.

2 (ii) Eligibility for wage supplement benefits begins at
3 maximum healing and terminates at the expiration of 500
4 weeks minus the number of weeks for which a worker's
5 impairment award is payable, subject to 39-71-710. A
6 worker's failure to sustain a wage loss compensable under
7 subsection (1)(b)(i) does not extend the period of
8 eligibility. However, if a worker becomes eligible for
9 temporary total disability, permanent total disability, or
10 total rehabilitation benefits after reaching maximum
11 healing, the eligibility period for wage supplement benefits
12 is extended by any period for which a worker is compensated
13 by those benefits after reaching maximum healing.

14 (2) The determination of permanent partial disability
15 must be supported by a preponderance of medical evidence.

16 (3) Notwithstanding subsection (1), beginning July 1,
17 1987, through June 30, 1989 1991, the maximum weekly
18 compensation benefits for permanent partial disability may
19 not exceed \$149.50, which is one-half the state's average
20 weekly wage established July 1, 1986."

21 **SECTION 7. SECTION 39-71-704, MCA, IS AMENDED TO READ:**

22 *39-71-704. Payment of medical, hospital, and related
23 services -- fee schedules and hospital rates. (1) In
24 addition to the compensation provided by this chapter and as
25 an additional benefit separate and apart from compensation,

1 the following must be furnished:

2 (a) After the happening of the injury, the insurer
3 shall furnish, without limitation as to length of time or
4 dollar amount, reasonable services by a physician or
5 surgeon, reasonable hospital services and medicines when
6 needed, and such other treatment as may be approved by the
7 department for the injuries sustained.

8 (b) The insurer shall replace or repair prescription
9 eyeglasses, prescription contact lenses, prescription
10 hearing aids, and dentures that are damaged or lost as a
11 result of an injury, as defined in 39-71-119, arising out of
12 and in the course of employment.

13 (c) The insurer shall reimburse a worker for
14 reasonable travel expenses incurred in travel to a medical
15 provider for treatment of an injury pursuant to rules
16 adopted by the department. Reimbursement must be at the
17 rates allowed for reimbursement of travel by state
18 employees.

19 (2) A relative value fee schedule for medical,
20 chiropractic, and paramedical services provided for in this
21 chapter, excluding hospital services, must be established
22 annually by the department and become effective in January
23 of each year. The maximum fee schedule must be adopted as a
24 relative value fee schedule of medical, chiropractic, and
25 paramedical services, with unit values to indicate the

1 relative relationship within each grouping of specialties.
 2 Medical fees must be based on the median fees as billed to
 3 the state fund during the year preceding the adoption of the
 4 schedule. The state fund shall report fees billed in the
 5 form and at the times required by the department. The
 6 department shall adopt rules establishing relative unit
 7 values, groups of specialties, the procedures insurers must
 8 use to pay for services under the schedule, and the method
 9 of determining the median of billed medical fees. These
 10 rules must be modeled on the 1974 revision of the 1969
 11 California Relative Value Studies.

12 (3) Beginning January 1, 1988, the department shall
 13 establish rates for hospital services necessary for the
 14 treatment of injured workers. Approved rates must be in
 15 effect for a period of 12 months from the date of approval.
 16 The department may coordinate this ratesetting function with
 17 other public agencies that have similar responsibilities.

18 (4) Notwithstanding subsection (2), beginning January
 19 1, 1988, and--ending--January-17-1990 through December 31,
 20 1991, the maximum fees payable by insurers must be limited
 21 to the relative value fee schedule established in January
 22 1987. Notwithstanding subsection (3), beginning January 1,
 23 1988, through December 31, 1991, the hospital rates payable
 24 by insurers must be limited to those set in January 1988,
 25 until-December-31-1989."

1 **SECTION 8. SECTION 39-71-721, MCA, IS AMENDED TO READ:**

2 "39-71-721. Compensation for injury causing death --
 3 limitation. (1) (a) If an injured employee dies and the
 4 injury was the proximate cause of such death, then the
 5 beneficiary of the deceased is entitled to the same
 6 compensation as though the death occurred immediately
 7 following the injury. A beneficiary's eligibility for
 8 benefits commences after the date of death, and the benefit
 9 level is established as set forth in subsection (2).

10 (b) The insurer is entitled to recover any
 11 overpayments or compensation paid in a lump sum to a worker
 12 prior to death but not yet recouped. The insurer shall
 13 recover such payments from the beneficiary's biweekly
 14 payments as provided in 39-71-741(5).

15 (2) To beneficiaries as defined in 39-71-116(2)(a)
 16 through (2)(d), weekly compensation benefits for an injury
 17 causing death are 66 2/3% of the decedent's wages. The
 18 maximum weekly compensation benefit may not exceed the
 19 state's average weekly wage at the time of injury. The
 20 minimum weekly compensation benefit is 50% of the state's
 21 average weekly wage, but in no event may it exceed the
 22 decedent's actual wages at the time of his death.

23 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 24 (2)(f), weekly benefits must be paid to the extent of the
 25 dependency at the time of the injury, subject to a maximum

1 of 66 2/3% of the decedent's wages. The maximum weekly
2 compensation may not exceed the state's average weekly wage
3 at the time of injury.

4 (4) If the decedent leaves no beneficiary as defined
5 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
6 to the decedent's surviving parent or parents.

7 (5) If any beneficiary of a deceased employee dies,
8 the right of such beneficiary to compensation under this
9 chapter ceases. Death benefits must be paid to a surviving
10 spouse for 500 weeks subsequent to the date of the deceased
11 employee's death or until the spouse's remarriage, whichever
12 occurs first. After benefit payments cease to a surviving
13 spouse, death benefits must be paid to beneficiaries, if
14 any, as defined in 39-71-116(2)(b) through (2)(d).

15 (6) In all cases, benefits must be paid to
16 beneficiaries, as defined in 39-71-116(2).

17 (7) Benefits paid under this section may not be
18 adjusted for cost of living as provided in 39-71-702.

19 (8) Notwithstanding subsections (2) and (3), beginning
20 July 1, 1987, through June 30, 1989 1991, the maximum weekly
21 compensation benefits for injury causing death may not
22 exceed the state's average weekly wage of \$299 established
23 July 1, 1986. Beginning July 1, 1987, through June 30, 1989
24 1991, the minimum weekly compensation for injury causing
25 death shall be \$149.50, which is 50% of the state's average

1 weekly wage established July 1, 1986, but in no event may it
2 exceed the decedent's actual wages at the time of death."

3 **Section 9.** Section 39-71-1024, MCA, is amended to
4 read:

5 "39-71-1024. Wage supplement and partial
6 rehabilitation benefits. (1) A worker who is in a
7 rehabilitation program under 39-71-1019 in accordance with
8 and for the maximum duration established by a final order of
9 determination by the department is eligible to receive the
10 following benefits:

11 (a) wage supplement benefits as provided in 39-71-703
12 but with the rate based on 66 2/3% of the worker's actual
13 wages received at the time of injury, subject to a maximum
14 of one-half the state's average weekly wage; and

15 (b) a partial rehabilitation benefit that, together
16 with the wage supplement provided in subsection (1)(a),
17 provides the worker with weekly benefits equal to the
18 worker's temporary total disability rate.

19 (2) After the worker completes the rehabilitation
20 program, the worker's further eligibility, if any, for wage
21 supplement benefits under 39-71-703 is reduced by the number
22 of weeks of wage supplement benefits received under
23 subsection (1)(a).

24 (3) Notwithstanding subsection (1)(a), beginning July
25 1, 1987, through June 30, 1989 1991, the maximum weekly

1 compensation benefit under that subsection may not exceed
 2 \$149.50, which is one-half the state's weekly wage
 3 established July 1, 1986."

4 **Section 10.** Section 39-71-2504, MCA, is amended to
 5 read:

6 "39-71-2504. (Temporary) Workers' compensation payroll
 7 and--wage tax account. (1) There is an a workers'
 8 compensation payroll-and--wage tax account in the state
 9 special revenue fund.

10 (2) All collections of the tax, and interest and
 11 penalties on the tax, AND REVENUE APPROPRIATED TO THE
 12 ACCOUNT UNDER [SECTION 2] must be deposited in the account
 13 and are statutorily appropriated, as provided in 17-7-502,
 14 to the department to be used to reduce the unfunded
 15 liability in the state fund. (Terminates June 30,
 16 1991--sec. 10, Ch. 664, L. 1987.)"

17 NEW SECTION. SECTION 11. APPROPRIATION. THERE IS
 18 APPROPRIATED \$20 MILLION FROM THE GENERAL FUND TO THE
 19 WORKERS' COMPENSATION TAX ACCOUNT IN THE STATE SPECIAL
 20 REVENUE FUND FOR FISCAL YEAR 1990 TO BE USED TO REDUCE THE
 21 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
 22 INSURANCE FUND.

23 NEW SECTION. Section 11. Construction of law.
 24 Nothing in 39-71-2501 through 39-71-2504 may be construed to
 25 conflict with the provisions of 39-71-406.

1 NEW SECTION. SECTION 12. EXEMPTION FROM NOTICE
 2 REQUIREMENT. THE 30-DAY NOTICE REQUIREMENT IMPOSED UNDER
 3 39-71-2304(1) DOES NOT APPLY TO RATE CHANGES EFFECTIVE JULY
 4 1, 1989, MADE IN RESPONSE TO THE PROVISIONS OF [THIS ACT].

5 NEW SECTION. Section 13. Severability. If a part of
 6 [this act] is invalid, all valid parts that are severable
 7 from the invalid part remain in effect. If a part of [this
 8 act] is invalid in one or more of its applications, the part
 9 remains in effect in all valid applications that are
 10 severable from the invalid applications.

11 NEW SECTION. SECTION 14. CODIFICATION. [SECTION 3]
 12 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15,
 13 CHAPTER 31, AND THE PROVISIONS OF TITLE 15, CHAPTER 31,
 14 APPLY TO [SECTION 3].

15 NEW SECTION. SECTION 15. APPLICABILITY. [SECTIONS 1
 16 THROUGH 3] APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER
 17 31, 1989.

18 NEW SECTION. Section 12. Retroactive applicability.
 19 [Section 9] applies retroactively, within the meaning of
 20 1-2-109, to all employee wages earned on or after July 1,
 21 1989.

22 NEW SECTION. SECTION 11. COORDINATION. IF SENATE
 23 BILL NO. 14 IS NOT PASSED AND APPROVED OR IF SENATE BILL NO.
 24 14 IS PASSED AND APPROVED BUT DOES NOT PROVIDE FOR THE
 25 ACCELERATED COLLECTION OF CORPORATE INCOME AND LICENSURE TAXES

1 ~~WITH THE DEPOSIT OF AT LEAST \$15 MILLION OF ACCELERATED~~
2 ~~COLLECTIONS IN THE GENERAL FUND, THIS ACT IS VOID.~~

3 NEW SECTION. Section 16. Effective date. [This act],
4 section 57, Chapter 63, Laws of 1989, and section 23,
5 Chapter 613, Laws of 1989, are IS effective on passage and
6 approval of {this act}.

7 NEW SECTION. Section 16. Termination. ---{Section 11}
8 terminates June 30, 1991.

-End-