

1 *Amended* BILL NO. 5

2 INTRODUCED BY *Philip D. Soren*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT SEPARATING THE
5 LIABILITY OF THE STATE WORKERS' COMPENSATION INSURANCE
6 PROGRAM AND FUND ON THE BASIS OF WHETHER THE LIABILITY
7 ORIGINATES FROM CLAIMS THAT AROSE BEFORE JULY 1, 1990, OR
8 CLAIMS THAT ARISE ON OR AFTER THAT DATE; REQUIRING THAT FOR
9 THE PORTION OF THE PREMIUMS ATTRIBUTABLE TO CLAIMS THAT
10 AROSE BEFORE JULY 1, 1990, THE STATE FUND SHALL CHARGE
11 AMOUNTS SUFFICIENT TO PROVIDE REVENUE TO SATISFY THOSE
12 CLAIMS AS THEY BECOME DUE AND PAYABLE; AMENDING SECTION
13 39-71-2316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
14 AND AN APPLICABILITY DATE."
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16

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

18 NEW SECTION. Section 1. Purpose of separation of state
19 fund liability as of July 1, 1990, and of separate treatment
20 of claims that arise before that date or on or after that
21 date -- separate payment structure. (1) An unfunded
22 liability exists in the state fund. It has existed since at
23 least the mid-1980s and has grown each year. There have been
24 numerous attempts to solve the problem by legislation and
25 other methods. These attempts have alleviated the problem

1 somewhat, but the problem has not been solved.

2 (2) The legislature has determined that it is necessary
3 to the public welfare to make workers' compensation
4 insurance available to all employers through the state fund
5 as the insurer of last resort. In making this insurance
6 available, the state fund has incurred the unfunded
7 liability. The legislature has determined that the most
8 cost-effective, most efficient, and surest way to treat
9 claims that arise on or after July 1, 1990, is to separate
10 the liability of the state fund on the basis of whether a
11 claim arose before July 1, 1990, or on or after that date.

12 (3) Premiums paid to the state fund based upon wages
13 payable before July 1, 1990, may be used only to administer
14 and pay claims that arose before July 1, 1990. Premiums paid
15 to the state fund based upon wages payable on or after July
16 1, 1990, must be based upon rates established pursuant to
17 39-71-2316(6).

18 Section 2. Section 39-71-2316, MCA, is amended to read:

19 "39-71-2316. Powers of the state fund -- rulemaking.
20 For the purposes of carrying out its functions, the state
21 fund may:

22 (1) insure any employer for workers' compensation and
23 occupational disease liability as the coverage is required
24 by the laws of this state and, in connection with the
25 coverage, provide employers' liability insurance. The state

1 fund may charge a minimum yearly premium to cover its
 2 administrative costs for coverage of a small employer.
 3 (2) sue and be sued;
 4 (3) adopt, amend, and repeal rules relating to the
 5 conduct of its business;
 6 (4) enter into contracts relating to the administration
 7 of the state fund, including claims management, servicing,
 8 and payment;
 9 (5) collect and disburse money received;
 10 (6) in establishing that portion of the premiums
 11 attributable to claims that arise on or after July 1, 1990,
 12 adopt classifications and charge premiums for the
 13 classifications so that the state fund will be neither more
 14 nor less than self-supporting. In establishing that portion
 15 of the premiums attributable to claims that arose before
 16 July 1, 1990, the state fund shall charge amounts sufficient
 17 to provide revenue to satisfy those claims as they become
 18 due and payable. The state fund must belong to the national
 19 council on compensation insurance and shall use the
 20 classifications of employment adopted by the national
 21 council and corresponding rates as a basis for setting its
 22 own rates.
 23 (7) pay the amounts determined due under a policy of
 24 insurance issued by the state fund;
 25 (8) hire personnel;

1 (9) declare dividends if there is an excess of assets
 2 over liabilities. However, dividends may not be paid until
 3 the unfunded liability of the state fund is eliminated and
 4 adequate actuarially determined reserves are determined.
 5 (10) perform all functions and exercise all powers of a
 6 domestic mutual insurer that are necessary, appropriate, or
 7 convenient for the administration of the state fund."
 8 NEW SECTION. Section 3. Applicability. [This act]
 9 applies to contracts and policies of insurance in force on
 10 July 1, 1990, or issued on or after July 1, 1990.
 11 NEW SECTION. Section 4. Effective date. [This act] is
 12 effective on passage and approval.

13 -End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

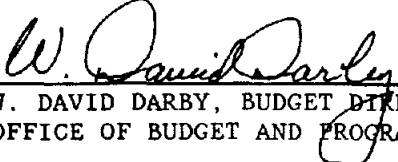
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0005, as introduced.

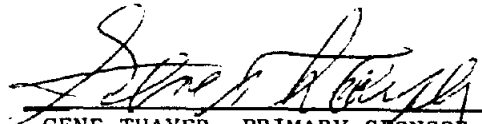
DESCRIPTION OF PROPOSED LEGISLATION:

An act separating the liability of the state worker's compensation insurance program and fund on the basis of whether the liability arises from claims for injuries resulting from accidents that occurred before July 1, 1990, or accidents that occur on or after that date; requiring that for that portion of the premiums attributable to claims that arose before July 1, 1990, the State Fund shall charge amounts sufficient to provide revenue to satisfy those claims as they become due and payable; amending section 39-71-2316, MCA; and providing an immediate effective date and an applicability data.

ASSUMPTIONS:

1. Under the proposed law, State Fund liability would be separated into an account for claims prior to July 1, 1990, and an account for claims after July, 1990. State Fund must charge premiums to remain actuarial sound regarding its liability for the payment of claims after July 1, 1990. Regarding its liability for claims prior to July 1, 1990, the State Fund will charge an amount to pay those claims as they become due and payable.
2. Under present law, the State Fund will raise rates by 24.34% effective July 1, 1990 to retire the unfunded liability by June 30, 1997.
3. Under the present law, the actuary contends the projected rate increase is sufficient to pay claims accrued prior to July 1, 1990, which become due and payable as well as develop actuarial soundness for the liability of claims accrued after July 1, 1990.
4. State Fund will incur additional cost associated with developing an automated claims management system sufficient to segregate claims and premium computations in accordance with the proposed law.


W. DAVID DARBY, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING
DATE 5/24/90


GENE THAYER, PRIMARY SPONSOR
Fiscal Note for SB0005, as introduced
DATE 5/24/90
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Fiscal Note Request, SB0005, as introduced

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FISCAL IMPACT:

<u>STATE FUND</u>	FY90 Current Law	FY90 Proposed Law	Difference
EFFECT ON REVENUES			
-- State Fund	\$95,994,000	\$95,994,000	\$ 0
-- Payroll Tax	13,283,000	13,283,000	0
Total Revenues	<u>\$109,277,000</u>	<u>\$109,277,000</u>	<u>\$ 0</u>
EFFECT ON EXPENDITURES			
-- Personal Services	\$4,370,056	\$4,370,056	\$ 0
-- Operating Expenses	3,322,325	3,327,325	5,000
-- Capital Outlay	314,019	314,019	0
Total Expenditures	<u>\$ 8,006,400</u>	<u>\$8,011,400</u>	<u>\$ 5,000</u>
NET EFFECT			
-- Contribution to Unfunded Liability & New Claims:	\$101,270,600	\$101,265,600	\$ 0
FUND INFORMATION:			
-- General Fund:	\$ 0	\$ 0	\$ 0
-- State Special Revenues:	13,283,000	13,283,000	0
-- Federal Revenues:	0	0	0
-- Proprietary Funds:	95,994,000	95,994,000	0
-- Total Funds:	<u>\$109,277,000</u>	<u>\$109,277,000</u>	<u>\$ 0</u>

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<u>STATE FUND</u>	FY91 Current Law	FY91 Proposed Law	Difference
EFFECT ON REVENUES			
-- State Fund	\$124,643,777	\$124,643,777	\$ 0
-- Payroll Tax	13,782,430	13,782,430	0
Total Revenues	<u>\$138,426,207</u>	<u>\$138,426,207</u>	<u>\$ 0</u>
EFFECT ON EXPENDITURES			
-- Personal Services	\$5,419,936	\$5,419,936	\$ 0
-- Operating Expenses	3,319,761	3,319,761	0
-- Capital Outlay	125,784	125,784	0
Total Expenditures	<u>\$ 8,865,481</u>	<u>\$8,865,481</u>	<u>\$ 0</u>
NET EFFECT			
-- Contribution to Unfunded Liability & New Claims:	\$129,560,726	\$129,560,726	\$ 0
FUND INFORMATION:			
-- General Fund:	\$ 12,347	\$ 12,347	\$ 0
-- State Special Revenues:	13,283,000	13,283,000	0
-- Federal Revenues:	126,633	126,633	0
-- Proprietary Funds:	124,504,797	124,504,797	0
-- Total Funds:	<u>\$138,426,207</u>	<u>\$138,426,207</u>	<u>\$ 0</u>

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LONG-EFFECTS OF LEGISLATION:

1. Depending on the amount of claims accrued prior to July 1, 1990, which become due and payable, the projected rate increase may vary considerably compared to the original projections.
2. Inadequate rates may increase the unfunded liability.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Unknown at this time.

TECHNICAL NOTES:

1. Section 2 does not provide a means to satisfy claims occurring before July 1, 1990. It will take an actuarial analysis to determine the exact rates.
2. The proposed law may need to be amended with language which exempts the State Fund from statutory and regulatory requirements enforced by the Insurance Commissioner.

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