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SENATE BILL NO. 290

Ellis Island

INTRODUCED BY

Kevin Simon Barnett BENEACCT HARP *DAW*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE WORKERS' COMPENSATION ADMINISTRATION FUND; ELIMINATING ASSESSMENT FUNDING TO THE DEPARTMENT OF COMMERCE;

CLARIFYING THOSE FEES THAT ARE DEPOSITED TO THE ADMINISTRATION FUND; REVISING THE METHOD OF ASSESSMENT AND THE ASSESSMENT BASE; REVISING THE PAYMENT AND COLLECTION REQUIREMENTS; AMENDING SECTION 39-71-201, MCA; AND PROVIDING EFFECTIVE DATES, RETROACTIVE APPLICABILITY DATES, AND A TERMINATION DATE."

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

Section 1. Section 39-71-201, MCA, is amended to read:

"39-71-201. Administration fund. (1) A workers' compensation administration fund is established out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the various statutory occupational safety acts the department and the boiler inspections the department of commerce must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by the department must be deposited shall collect and deposit in the state treasury to the credit of the workers' compensation administrative fund and must be used for the administrative expenses of the department and for the administrative expenses of the department of commerce for the purposes of 50-74-101:

(a) all fees and penalties provided in 39-71-205 and, 39-71-223, 39-71-304, 39-71-307, 39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

(b) all fees paid for inspection of boilers as required by law;

(c) all fees taxes paid from by an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding calendar year . However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less

1 than ~~200~~ 500. If at any time during the fiscal year a plan No. 1 employer is granted permission to
 2 self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1
 3 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the
 4 direct costs identified to the three plans and an equitable portion of the indirect costs based on the ratio
 5 of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost
 6 allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an
 7 equitable portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including
 8 unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the
 9 assessments.

10 (2) The administration fund must be debited with expenses incurred by the department in the
 11 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 12 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 13 through 2-18-503, as amended, incurred while on the business of the department either within or without
 14 the state.

15 (3) Disbursements from the administration money must be made after being approved by the
 16 department upon a claim therefor."

17

18 **Section 2.** Section 39-71-201, MCA, is amended to read:

19 **"39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
 20 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 21 ~~various statutory occupational safety acts the department and the boiler inspections the department of~~
 22 ~~commerce~~ must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907,
 23 and the uninsured employers' fund, are to be paid upon lawful appropriation. The ~~following money collected~~
 24 ~~by the department must be deposited~~ shall collect and deposit in the state treasury to the credit of the
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 27 ~~50-74-101:~~

28 (a) all fees and penalties provided in 39-71-205 ~~and~~, 39-71-223, 39-71-304, 39-71-307,
 29 39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

30 (b) ~~all fees paid for inspection of boilers as required by law;~~

1 ~~(e)(b) all fees taxes paid from~~ by an assessment on each plan No. 1 employer, plan No. 2 insurer,
 2 and plan No. 3, the state fund. The assessments ~~must be levied against the preceding calendar year's gross~~
 3 ~~annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on~~
 4 ~~the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding~~
 5 ~~calendar year. However, an~~ must be 2.15% of the following benefits paid during the preceding calendar
 6 year for injuries covered by the Workers' Compensation Act and the Occupational Disease Act without
 7 regard to the application of any deductible whether the employer or the insurer pays the losses:

8 (i) total compensation benefits paid; and

9 (ii) except for medical benefits in excess of \$200,000 per occurrence that are exempt from
 10 assessment, total medical benefits paid for medical treatment rendered to an injured worker, including
 11 hospital treatment and prescription drugs.

12 (2) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan
 13 No. 3, the state fund, shall file annually on March 31 in the form and containing the information required
 14 by the department a report of paid losses pursuant to subsection (1)(b).

15 (3) An assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200
 16 \$500. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a
 17 plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan
 18 No. 2 insurer is subject to an initial assessment equal to the minimum assessment against plan No. 1
 19 employers and plan No. 2 insurers.

20 (4) Payment of the assessment required by this section must be submitted by the employer under
 21 plan No. 1, plan No. 2, or plan No. 3 in:

22 (a) one installment made on or before June 30; or

23 (b) two equal installments made on or before June 30 and December 31 of each year. If an
 24 employer or insurer fails to pay the assessment required under this section, the department may impose
 25 a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%. The assessments
 26 must be sufficient to fund the direct costs identified to the three plans and an equitable portion of the
 27 indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using
 28 proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to
 29 fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3. Other sources
 30 of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs

1 ~~before levying the assessments.~~

2 ~~(2)(5)~~ The administration fund must be debited with expenses incurred by the department in the
3 general administration of the provisions of this chapter, including the salaries of its members, officers, and
4 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
5 through 2-18-503, as amended, incurred while on the business of the department either within or without
6 the state.

7 ~~(3)(6)~~ Disbursements from the administration money must be made after being approved by the
8 department upon claim ~~therefor~~ for disbursement."

9

10 NEW SECTION. Section 3. Effective dates -- retroactive applicability. (1) [Sections 1 and 4 and
11 this section] are effective on passage and approval and [section 1] applies retroactively, within the meaning
12 of 1-2-109, to taxes collected on or after June 30, 1997.

13 (2) [Section 2] is effective July 1, 1999, and applies retroactively, within the meaning of 1-2-109,
14 to taxes collected on or after June 30, 1998.

15

16 NEW SECTION. Section 4. Termination. [Section 1] terminates June 30, 1998.

17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0290, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the workers' compensation administration fund; eliminating assessment funding to the Department of Commerce; clarifying those fees that are deposited to the administration fund.

ASSUMPTIONS:

1. Current law assessments are levied against Plan I employers' gross annual payroll for the preceding calendar year, Plan II insurers gross annual direct premiums collected in Montana during the preceding calendar year, and Plan 3 is assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating Plan III.
2. This bill changes the funding methodology for the regulation of the workers' compensation and occupational disease acts from the current cost allocation procedures that distribute costs to plan I, II, and III to a new procedure utilizing a 2.15% mandatory assessment on workers' compensation benefits paid to claimants per calendar year.
3. Effective July 1, 1999, and applied retroactively to July 1, 1998, all plan I, plan II, and plan III carriers will be assessed 2.15% of all compensation and medical benefits paid during the preceding calendar year, except for medical benefits in excess of \$200,000 per occurrence. The effect of this exclusion was indeterminable.
4. The assessment for FY98 and FY99 is based on the old methodology.
5. The percentage methodology, as defined in Section 2, is applied for the first time in state fiscal year 00 (July 1, 1999, through June 30, 2000). The revenue from the percentage methodology will be based on benefits paid during the preceding calendar year (1998 calendar year), billed on or about May 1, 1999, and total paid by December 31, 1999, to fund the FY2000 budget.
6. Assessments may be paid annually on or before June 30 or in two equal installments made on or before June 30 and December 31 of each year.
7. The statutory programs which the Department of Labor and Industry (DOLI) administers include the Occupational Safety and Health Administration (OSHA) program, the Mine Safety and Health Administration (MSHA) program, and the Occupational Statistics program. These will continue to be matched by workers' compensation administration funds.
8. The Department of Commerce (DoC) currently administers the boiler inspection program, which was transferred from the DOLI by HB 68 during the 1995 legislative session.

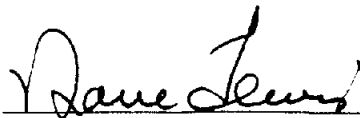
Department of Commerce:

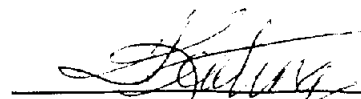
9. This bill eliminates the worker's compensation administrative fund support for DoC's boiler inspections program without identification of a substitute source of funding or a commensurate reduction in boiler inspections required.
10. The boiler inspection programs FY98 and FY99 budget request as presented in the Governor's Executive Budget is the basis for the derivations of the fiscal impact of SB 290.

Department of Labor and Industry:

11. Data indicates (see table 1.) that total benefit payments are generally declining due to law changes from the recent legislative sessions.
12. Language in Section 1 of the bill, which increases the minimum assessment amount from \$200 to \$500 (Plan I and II), is estimated to augment the assessment in FY98 and FY99 by \$48,000 annually.
13. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.

(Continued)

 2-14-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/14/97
TOM KEATING, PRIMARY SPONSOR DATE

Fiscal Note for SB0290, as introduced

SB290

(continued)

State Fund:

14. Aggregate benefit payments during calendar year 1996 were \$93,405,258. Projected aggregate benefit payments for CY 1997 are \$92,465,353; for CY 1998 are \$92,213,614; for CY 1999 are \$93,933,553.
15. Historical Plan 3 assessments have been: FY 1996, \$1,569,384; FY 1995, 2,159,608; FY 1994, \$2,303,130.
16. Plan 3 assessment for FY 1997 is \$1,474,582.
17. Projected assessments under current law are: FY 1998, \$1,475,000; FY 1999, \$1,500,000.
18. Projected assessments under proposed law would be: FY 1998, \$1,475,000; FY 1999, \$1,982,593.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Department of Labor and Industry:		
<u>Revenues:</u>		
WC Administration Fund (02)	48,000	48,000
Department of Commerce:		
<u>Expenditures:</u>		
Personal Services	108,621	110,878
Operating Expenses	<u>60,009</u>	<u>59,886</u>
Total	168,630	170,764
<u>Revenues:</u>		
Boiler Inspection Fees	100,000	100,000
<u>Net Impact:</u>		
Boiler Inspection(02)	(68,630)	(70,764)
State Fund:		
<u>Net Impact:</u>		
Administrative Assessment(6)	0	482,593

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

ASSUMPTIONS FOR THE LONG-RANGE EFFECTS:

Department of Labor and Industry

1. The workload for workers' compensation and occupational disease regulatory programs is not changed by this legislation. The workload associated with benefits paid to injured workers is only one segment of total work performed by regulatory programs funded with this assessment.
2. Data indicates that total benefit payments are generally declining due to law changes from the recent legislative sessions. (Please see table 1, which is constructed to show shortfalls that, although they do not occur at this time, are shown to demonstrate the financial implications of a 2.15% assessment.)
3. The 2.15% annual fixed assessment rate for workers' compensation administration fund will generate an annual assessment funding shortfall in the range of 27% in fiscal year 2000 and 31% in fiscal year 2001. (Please see table 2, which, although the 2.15% assessment does not occur at this time, demonstrates the financial implications of a 2.15% assessment.)
4. It is assumed that a 3% inflation rate will continue into FY00/FY01 for purposes of costs associated with oversight of the workers' compensation and occupational disease acts.
5. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.
6. The 55th Legislature will need to provide guidance to the DOLI in determining what portions of the workers' compensation and occupational disease acts are to be eliminated or changed during FY99 in order to accommodate the reduced funding level in FY2000 resulting from an assessment based on 2.15% of benefits, or will adjust the percentage of assessments to fully fund the current statutory activities.
7. The impact to generated revenues because of the exemption granted in Section 2 b (11) is unable to be determined.

(Continued)

State Fund:

- The net impact to the State Fund in future years would be to increase operating expenses by \$400,000 to \$500,000 each year over what the State Fund paid in FY 1996 in administrative assessment under current law.

Department of Labor and Industry:

TABLE 1 (FISCAL YEARS)

FISCAL YEAR	Total Benefits	WC Assessments-actual costs	IMPACT OF PROPOSAL	
			If x 2.15%	Shortfall
1993	\$169,369,071	\$3,058,259	\$3,641,435	\$583,176
1994	\$143,722,195	\$3,745,805	\$3,090,517	(\$655,288)
1995	\$152,742,432	\$3,944,799	\$3,284,052	(\$660,747)
1996	\$148,026,132	\$3,623,108	\$3,182,562	(\$440,546)

TABLE 2 (CALENDAR YEARS for the Benefits Paid)

CALENDAR Yr	Total Benefits per CALENDAR YR	WC Assessments-FY costs	If x 2.15%	Shortfall
1996	\$137,620,989	\$3,623,108	\$2,958,851	(\$664,257)
1997	\$138,500,000	\$3,676,000 estimated	\$2,977,750	(\$698,250)

The following is based on funding levels as submitted to 55th Legislature for FY98 and FY99, pay plan included, but not including the Dept of Commerce's 02455 request.

1998	\$135,600,000	\$3,676,208	\$2,915,400	(\$760,808)
1999	\$132,400,000	\$3,696,672	\$2,846,600	(\$850,072)
The expenditures assume a 3% inflation rate.				
2000	\$129,400,000	\$3,807,572	\$2,782,100	(\$1,025,472)
2001	\$126,200,000	\$3,921,800	\$2,713,300	(\$1,208,500)

TECHNICAL NOTES:

Department of Labor and Industry:

- Section 3 (2) is confusing, rather than to taxes collected on or after June 30, 1998, the phrase should state to benefits paid after calendar year 1997.
- The obligation as stated in Section 3 (1) would be less ambiguous if the wording were "taxes due on or after June 30, 1997".
- It is unclear if rehabilitation benefits are included in the understanding of benefits paid.

Department of Commerce:

- The boiler inspection fees established in 50-74-219, MCA, needs to be increased to adequately support the entire cost of the boiler inspection program. Amendments to SB 290 have been prepared by the department which would correct the funding shortfall by either increasing fees in statute or by providing the DOC with the authority to set fees by administrative rule.
- In order to fully support the boiler inspection program, fees would need to be increased (either by statute or by rule) as follows:

Type Fee	Old Fee	New Fee
Operating Certificate	\$20.00	\$26.00
Internal Inspection	\$40.00	\$75.00
Hot Water Heating & Supply	\$15.00	\$30.00
Steam Heating	\$20.00	\$40.00
Power Boiler	\$30.00	\$55.00

- If boiler inspection fees are not increased in statute, or the DOC given authority to do so by rule, the bureau will only be able to inspect approximately 1/2 of the boilers (1,000 vs 1,900) required to be inspected annually under current law. Annual expenditures would have to be reduced to approximate annual revenues and boilers would consequently go uninspected.

State Fund:

7. Section 2 (b)(ii) refers to occurrences which are exempt from assessment. The term "occurrences" needs clarification.
8. Section 1 and Section 2 redefine fees as taxes. The State Fund has previously been exempted from paying taxes (e.g., premium taxes and corporate income taxes).
9. The State Fund has assumed Section 2 is effective 7/1/98. However, Section 3 of SB 290 is unclear whether the effective date of Section 2 is 7/1/98 or 7/1/99. If the effective date is 7/1/99, there is no fiscal impact to the State Fund until the fiscal year ending 6/30/2000 as explained in the long-range effects.

DEDICATION OF REVENUE:

Department of Commerce

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 would remove this subsidy and without any amendment in the current fee schedule, reduce by almost half the number of boiler inspections required to be conducted annually. SB 290 should be amended to allow fees to be set commensurate with program costs.
- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
Problems which might arise in connection with boiler inspections can be mitigated by resources funded directly boiler inspection fees rather than from the general fund.
- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 should be amended to allow fees to be set commensurate with program costs.
- d) Does the need for this state special revenue provision still exist? Yes No (Explain)
Boiler inspection fees will be deposited in a new state special revenue account in the Department of Commerce.
- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)
No. The legislature establishes spending authority for each biennium for dedicated revenue. The legislature also sets priorities when it considers Executive Budget priorities.
- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)
Yes, provided the legislature continues to mandate the regulation and inspection of boilers.
- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
State special revenue accounts typically maintain solvency by raising or lowering fees to keep funds commensurate with costs. As mentioned above, SB 290 should be amended to allow fees to be set commensurate with program costs.

SENATE BILL NO. 290

INTRODUCED BY KEATING, SIMON, BURNETT, BENEDICT, HARP, GAGE, COCCHIARELLA, MOOD,
CRISMORE, SHEA, GLASER, KEENAN, MENAHAN, SLITER, SQUIRES, WILSON, EMERSON,
CHRISTIAENS, TASH, HARPER, KITZENBERG, AKLESTAD, PAVLOVICH, THOMAS, GRINDE,
VAN VALKENBURG, ELLIS, FELAND, MAHLUM

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE WORKERS' COMPENSATION
ADMINISTRATION FUND; ELIMINATING ASSESSMENT FUNDING TO THE DEPARTMENT OF COMMERCE
AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM; CLARIFYING THOSE
FEES THAT ARE DEPOSITED TO THE ADMINISTRATION FUND; REVISING THE METHOD OF ASSESSMENT
AND THE ASSESSMENT BASE; REVISING THE PAYMENT AND COLLECTION REQUIREMENTS; PROVIDING
FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL; AMENDING
SECTION SECTIONS 39-71-201 AND 50-74-219, MCA; AND PROVIDING EFFECTIVE DATES,
~~RETROACTIVE~~ APPLICABILITY DATES, AND A TERMINATION DATE."

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~~50-74-101:~~

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 6 may not be less than ~~\$200~~ \$500. If at any time during the fiscal year a plan No. 1 employer is granted
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 16 general administration of the provisions of this chapter, including the salaries of its members, officers, and
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 13 ~~the losses:~~

14 ~~(i) total compensation benefits paid; and~~

15 ~~(ii) except for medical benefits in excess of \$200,000 per occurrence that are exempt from~~
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18 ~~(2) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan~~
 19 ~~No. 3, the state fund, shall file annually on March 31 in the form and containing the information required~~
 20 ~~by the department a report of paid losses pursuant to subsection (1)(b).~~

21 ~~(3) An assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200~~
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 24 ~~No. 2 insurer is subject to an initial assessment equal to the minimum assessment against plan No. 1~~
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28 ~~(a) one installment made on or before ~~June 30~~ JULY 1; or~~

29 ~~(b) two equal installments made on or before ~~June 30~~ JULY 1 and December 31 of each year. If~~
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 9 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 10 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 11 through 2-18-503, as amended, incurred while on the business of the department either within or without
 12 the state.

13 ~~(3)~~(6) Disbursements from the administration money must be made after being approved by the
 14 department upon claim ~~therefor~~ for disbursement."

15

16 **SECTION 3. SECTION 50-74-219, MCA, IS AMENDED TO READ:**

17 **"50-74-219. Fee for inspection. (1)** Whenever a department inspector inspects a boiler, a fee
 18 must be charged and collected by the department prior to issuance of an inspection certificate in
 19 accordance with the following schedule:

20 ~~(1)~~(a) operating certificate, ~~\$20~~ \$26;

21 ~~(2)~~(b) internal inspection, ~~\$40~~ \$75;

22 ~~(3)~~(c) external inspection:

23 ~~(a)~~(i) hot water heating and supply, ~~\$15~~ \$30;

24 ~~(b)~~(ii) steam heating, ~~\$20~~ \$40; and

25 ~~(c)~~(iii) power boiler, ~~\$30~~ \$55; and

26 ~~(4)~~(d) special inspection, \$50 per hour plus expenses.

27 (2) Fees collected under this section must be deposited in a department state special revenue
 28 account for administration of the boiler inspection program."

29

30 **NEW SECTION. SECTION 4. WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL.**

1 (1) THERE IS CREATED A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL PURSUANT
2 TO 2-15-122 TO REVIEW THE STATE'S WORKERS' COMPENSATION REGULATORY SYSTEM AND MAKE
3 RECOMMENDATIONS TO THE GOVERNOR REGARDING:

4 (A) APPROPRIATE REGULATORY GOALS;

5 (B) NECESSARY REGULATORY ACTIVITIES TO MEET IDENTIFIED GOALS; AND

6 (C) APPROPRIATE AND EQUITABLE FUNDING LEVELS AND FUNDING MECHANISMS TO MEET
7 IDENTIFIED GOALS.

8 (2) THE COUNCIL MUST COMPRISE A BROAD SPECTRUM OF PARTIES WHO HAVE A DIRECT
9 INTEREST IN WORKERS' COMPENSATION ISSUES AND MUST INCLUDE BUT IS NOT LIMITED TO
10 REPRESENTATIVES OF:

11 (A) WORKERS' COMPENSATION INSURERS;

12 (B) INSURED AND SELF-INSURED EMPLOYERS;

13 (C) ORGANIZED LABOR;

14 (D) THE MONTANA CHAMBER OF COMMERCE;

15 (E) THE MONTANA HOSPITAL ASSOCIATION;

16 (F) THE MONTANA MEDICAL ASSOCIATION;

17 (G) THE MEDIA;

18 (H) THE DEPARTMENT OF LABOR AND INDUSTRY;

19 (I) THE MONTANA SENATE;

20 (J) THE MONTANA HOUSE OF REPRESENTATIVES;

21 (K) THE PUBLIC.

22 (3) THE COUNCIL SHALL SEEK BROAD INPUT FOR THEIR REVIEW, INCLUDING BUT NOT LIMITED
23 TO INFORMATION REGARDING MONTANA'S CURRENT REGULATIONS, NATIONAL BENCHMARKS, AND
24 OTHER STATE REGULATORY SCHEMES.

25
26 NEW SECTION. SECTION 5. REQUIRED REPORT. FOR PURPOSES OF FEES ASSESSED ON OR
27 AFTER JULY 1, 1999, EACH PLAN NO. 1 EMPLOYER, PLAN NO. 2 INSURER, AND PLAN NO. 3, THE
28 STATE FUND, SHALL FILE ON MARCH 31, 1999, IN THE FORM AND CONTAINING THE INFORMATION
29 REQUIRED BY THE DEPARTMENT OF LABOR AND INDUSTRY A REPORT OF PAID LOSSES.

1 SENATE BILL NO. 290

2 INTRODUCED BY KEATING, SIMON, BURNETT, BENEDICT, HARP, GAGE, COCCHIARELLA, MOOD,
3 CRISMORE, SHEA, GLASER, KEENAN, MENAHAN, SLITER, SQUIRES, WILSON, EMERSON,
4 CHRISTIAENS, TASH, HARPER, KITZENBERG, AKLESTAD, PAVLOVICH, THOMAS, GRINDE,
5 VAN VALKENBURG, ELLIS, FELAND, MAHLUM

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE WORKERS' COMPENSATION
8 ADMINISTRATION FUND; ELIMINATING ASSESSMENT FUNDING TO THE DEPARTMENT OF COMMERCE
9 AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM; CLARIFYING THOSE
10 FEES THAT ARE DEPOSITED TO THE ADMINISTRATION FUND; REVISING THE METHOD OF ASSESSMENT
11 AND THE ASSESSMENT BASE; REVISING THE PAYMENT AND COLLECTION REQUIREMENTS; PROVIDING
12 FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL; AMENDING
13 ~~SECTION~~ SECTIONS 39-71-201 AND 50-74-219, MCA; AND PROVIDING EFFECTIVE DATES,
14 ~~RETROACTIVE~~ APPLICABILITY DATES, AND A TERMINATION DATE."

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0290, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the workers' compensation administration fund; eliminating assessment funding to the Department of Commerce and providing substitute funding for the Boiler Inspection Program; clarifying those fees that are deposited to the administration fund; revising the method of assessment and the assessment base; revising the payment and collection requirements; providing for a workers' compensation regulation advisory council.

ASSUMPTIONS:

General:

1. Current law assessments are levied against Plan 1 employers' gross annual payroll for the preceding calendar year, Plan 2 insurers gross annual direct premiums collected in Montana during the preceding calendar year, and Plan 3 is assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating Plan 3.
2. This bill changes the funding methodology for the regulation of the workers' compensation and occupational disease acts from the current cost allocation procedures that distribute costs to Plan 1, 2, and 3 to a new procedure utilizing a 2.6% mandatory assessment on workers' compensation benefits paid to claimants per calendar year.
3. Effective July 1, 1999, and applied retroactively to July 1, 1998, all Plan 1, Plan 2, and Plan 3 carriers will be assessed 2.6% of all compensation and medical benefits paid during the preceding calendar year, except for medical benefits in excess of \$200,000 per occurrence. The effect of this exclusion was indeterminable.
4. The assessment for FY98/FY99 is based on the old methodology.
5. The percentage methodology, as defined in Section 2, is applied for the first time in state fiscal year 00 (July 1, 1999, through June 30, 2000). The revenue from the percentage methodology will be based on benefits paid during the preceding calendar year (1998 calendar year), billed on or about May 1, 1999, and total paid by December 31, 1999, to fund the FY00 budget.
6. Assessments may be paid annually on or before June 30 or in two equal installments made on or before June 30 and December 31 of each year.
7. The statutory programs the Department of Labor and Industry (DOLI) administers include the Occupational Safety and Health Administration (OSHA) Program, the Mine Safety and Health Administration (MSHA) Program, and the Occupational Statistics Program. These will continue to be matched by workers' compensation administration funds.
8. The Department of Commerce (DoC) currently administers the boiler inspection program, which was transferred from the DOLI by HB 68 during the 1995 Legislative Session.

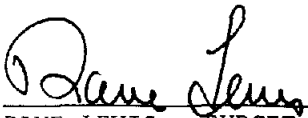
Department of Commerce:

9. This bill eliminates the worker's compensation administrative fund support for the Department of Commerce (DoC) Boiler Inspections Program and establishes a state special revenue account for the administration of boiler inspections.
10. The boiler inspection fee schedule is changed to mandate fees that are commensurate with program costs. There is no fiscal impact to DoC.

Department of Labor and Industry:

11. Data indicates (see table 1) that total benefit payments generally are declining due to law changes from the recent past legislative sessions.
12. Language in Section 1 of the bill, which increases the minimum assessment amount from \$200 to \$500 (Plan 1 and 2), is estimated to augment the assessment in FY98 and FY99 by \$48,000 annually.

(Continued)


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning 3.14.97


TOM KEATING, PRIMARY SPONSOR DATE
3/14/97

Fiscal Note for SB0290, third reading

SB 290 #2

(continued)

13. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.
14. The Workers' Compensation Advisory Council will have twelve (12) members.
15. The Workers' Compensation Advisory Council will meet twelve times a year.
16. Each board member is entitled to a \$50 per diem and reimbursement for travel, lodging, and meals, at state rates. Assuming \$150 per board member per meeting in costs including per diem, this will mean annual expenditures for the council will total \$21,600 each year of the biennium.

State Fund:

17. Aggregate benefit payment projection for CY 1998 are \$76,550,000; for CY 1999 are \$78,001,250.
18. Historical Plan 3 assessments have been: FY 1996, \$1,569,384; FY 1995, 2,159,608; FY 1994, \$2,303,130.
19. Plan 3 assessment for FY 1997 is \$1,474,582.
20. Projected assessments under current law are: FY 1998, \$1,475,000; FY 1999, \$1,500,000.
21. Projected assessments under proposed law would be: FY 1998, \$1,475,000; FY 1999, \$2,028,033.

FISCAL IMPACT:

Department of Labor and Industry:

<u>Expenditures</u>	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Council Operating	\$21,600	\$21,600
<u>Funding (02)</u>	\$21,600	\$21,600
 <u>Revenues:</u>		
WC Administration Fund (02)	\$48,000	\$48,000
 <u>Net Impact: (revenue minus expense)</u>		
WC Administration Fund (02)	\$26,400	\$26,400
 State Fund:		
<u>Net Impact:</u>		
Administrative Assessment (06)	0	\$528,033

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

ASSUMPTIONS FOR THE LONG RANGE EFFECTS:

Department of Labor and Industry:

1. The workload for workers' compensation and occupational disease regulatory programs is not changed by this legislation. The workload associated with benefits paid to injured workers is only one segment of total work performed by regulatory programs funded with this assessment.
2. Data indicates that total benefit payments generally are declining due to law changes from the recent legislative sessions. (Please see Table 1, which is constructed to show shortfalls that, although they do not occur at this time, are shown to demonstrate the financial implications of a 2.6% assessment.)
3. The 2.6% annual fixed assessment rate for workers' compensation administration fund will generate an annual assessment funding shortfall in the range of 4% in fiscal year 2000 and 8% in fiscal year 2001. (Please see Table 2, which, although the 2.6% assessment does not occur at this time, demonstrates the financial implications of a 2.6% assessment.)
4. It is assumed that a 3% inflation rate will continue into FY00/FY01 for purposes of costs associated with oversight of the workers' compensation and occupational disease acts.
5. All costs of administering the workers' compensation and occupational disease acts (direct and indirect costs) will continue to be funded by the workers' compensation administration fund.

(Continued)

(continued)

6. The 55th Legislature will need to provide guidance to the DOLI in determining what portions of the workers' compensation and occupational disease acts are to be eliminated or changed during FY99 in order to accommodate the reduced funding level in FY2000 resulting from an assessment based on 2.6% of benefits, or will adjust the percentage of assessments to fully fund the current statutory activities.
7. The impact to generated revenues because of the exemption granted in Section 2(b)(ii) is unable to be determined.

State Fund:

8. The net impact to the State Fund in future years would be to increase operating expenses by \$500,000 to \$600,000 each year over what the State Fund paid in FY 1996 in administrative assessment under current law.

Department of Labor and Industry:**TABLE 1 (FISCAL YEARS)****IMPACT OF PROPOSAL**

<u>FISCAL YEAR</u>	<u>Total Benefits</u>	<u>WC Assessments-actual costs</u>	<u>If x 2.6%</u>	<u>Difference</u>
1993	\$169,369,071	\$3,058,259	\$4,403,596	\$1,345,337
1994	\$143,722,195	\$3,745,805	\$3,736,777	(\$9,028)
1995	\$152,742,432	\$3,944,799	\$3,971,303	\$26,504
1996	\$148,026,132	\$3,623,108	\$3,848,679	\$225,571

TABLE 2 (CALENDAR YEARS for the Benefits Paid)

<u>CALENDAR Yr</u>	<u>Total Benefits</u> <u>per CALENDAR YR</u>	<u>WC Assessments-FY costs</u>	<u>If x 2.6%</u>	<u>Difference</u>
1996	\$141,298,688	\$3,623,108	\$3,673,766	\$50,658
1997	\$143,500,000	\$3,676,000 estimated	\$3,731,000	\$55,000
The following is based on funding levels as submitted to 55th Legislature for FY98 and FY99, pay plan included, but not including the Dept of Commerce's 02455 request.				
1998	\$142,300,000	\$3,676,208	\$3,699,800	\$23,592
1999	\$141,000,000	\$3,696,672	\$3,666,000	(\$30,672)
The expenditures assume a 3% inflation rate.				
2000	\$139,800,000	\$3,807,572	\$3,634,800	(\$172,772)
2001	\$138,700,000	\$3,921,800	\$3,606,200	(\$315,600)

TECHNICAL NOTES:**Department of Labor and Industry:**

1. Section 3 (2) is confusing, rather than to taxes collected on or after June 30, 1998, the phrase should state to benefits paid after calendar year 1997.
2. The obligation as stated in Section 3 (1) would be less ambiguous if the wording were "taxes due on or after June 30, 1997".
3. It is unclear if rehabilitation benefits are included in the understanding of benefits paid.
4. SB 375 requires that DOLI notify the three plans by March 31 of the amount of their respective subsequent injury fund (SIF) assessment. To determine the amount of the SIF assessment, the paid loss figures would be needed for administrative purposes by February 28 in order to determine the SIF assessment. Senate Bill 290 includes scheduling cycles for reporting of paid losses on March 31 of each year by Plan 1 self-insurers, Plan 2 private carriers, and the State Fund. These reporting schedules between the two bills need to be reconciled.

State Fund:

5. Section 2(b)(ii) refers to occurrences which are exempt from assessment. The term "occurrences" needs clarification.
6. Section 1 and Section 2 redefine fees as taxes. The State Fund has previously been exempted from paying taxes, i.e., premium taxes and corporate income taxes.
7. The State Fund has assumed Section 2 is effective 7/1/98. However, Section 3 of SB 290 is unclear whether the effective date of Section 2 is 7/1/98 or 7/1/99. If the effective date is 7/1/99, there is no fiscal impact to the State Fund until the fiscal year ending 6/30/2000 as explained in the long-range effects.

(Continued)

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)
Under current law, boiler inspections are subsidized by the workers compensation administrative fund. SB 290 as amended, revises the current fees schedule by mandating fees commensurate with program costs.
- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
Problems which might arise in connection with boiler inspections can be mitigated by resources funded directly boiler inspection fees rather than from the general fund.
- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? XX Yes No (if no, explain)
Under current law, boiler inspections are subsidized by the workers' compensation administrative fund. SB 290 as amended, revises the current fees schedule by mandating fees commensurate with program costs.
- d) Does the need for this state special revenue provision still exist? XX Yes No (Explain)
Boiler inspection fees will be deposited in a new state special revenue account in the Department of Commerce.
- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)
No. The legislature establishes spending authority each biennium for dedicated revenue. The legislature also sets priorities when it considers executive budget priorities.
- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)
Yes, provided the legislature continues to mandate the regulation and inspection of boilers.
- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
State special revenue accounts typically maintain solvency by raising or lowering fees to keep funds commensurate with costs. As mentioned above, the boiler inspections are subsidized by the workers' compensation administrative fund. SB 290 as amended revises the current fees schedule by mandating fees commensurate with program costs.

1 SENATE BILL NO. 290

2 INTRODUCED BY KEATING, SIMON, BURNETT, BENEDICT, HARP, GAGE, COCCHIARELLA, MOOD,
3 CRISMORE, SHEA, GLASER, KEENAN, MENAHAN, SLITER, SQUIRES, WILSON, EMERSON,
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6

7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE WORKERS' COMPENSATION
8 ADMINISTRATION FUND; ELIMINATING ASSESSMENT FUNDING TO THE DEPARTMENT OF COMMERCE
9 AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM; CLARIFYING THOSE
10 FEES THAT ARE DEPOSITED TO THE ADMINISTRATION FUND; REVISING THE METHOD OF ASSESSMENT
11 AND THE ASSESSMENT BASE; REVISING THE PAYMENT AND COLLECTION REQUIREMENTS; PROVIDING
12 FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL; AMENDING
13 SECTION SECTIONS 39-71-201 AND 50-74-219, MCA; AND PROVIDING EFFECTIVE DATES,
14 ~~RETROACTIVE~~ APPLICABILITY DATES, AND A TERMINATION DATE."
15

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

18 **Section 1.** Section 39-71-201, MCA, is amended to read:

19 "**39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
20 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
21 ~~various statutory occupational safety acts the department and the boiler inspections the department of~~
22 ~~commerce~~ must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907,
23 and the uninsured employers' fund, are to be paid upon lawful appropriation. ~~The following money collected~~
24 ~~by the department must be deposited~~ shall collect and deposit in the state treasury to the credit of the
25 workers' compensation administrative fund ~~and must be used for the administrative expenses of the~~
26 ~~department and for the administrative expenses of the department of commerce for the purposes of~~
27 ~~50-74-101~~;

28 (a) all fees and penalties provided in 39-71-205 ~~and~~, 39-71-223, 39-71-304, 39-71-307,
29 39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

30 (b) ~~all fees paid for inspection of boilers as required by law;~~

1 ~~(e)~~ all ~~fees taxes~~ FEES paid ~~from~~ by an assessment on each plan No. 1 employer, plan No. 2
 2 insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar
 3 year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in
 4 Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during
 5 the preceding calendar year . However, an assessment of the plan No. 1 employer or plan No. 2 insurer
 6 may not be less than ~~\$200~~ \$500. If at any time during the fiscal year a plan No. 1 employer is granted
 7 permission to self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that
 8 plan No. 1 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient
 9 to fund the direct costs identified to the three plans and an equitable portion of the indirect costs based on
 10 the ratio of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and
 11 cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and
 12 an equitable portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including
 13 unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the
 14 assessments.

15 (2) The administration fund must be debited with expenses incurred by the department in the
 16 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 17 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 18 through 2-18-503, as amended, incurred while on the business of the department either within or without
 19 the state.

20 (3) Disbursements from the administration money must be made after being approved by the
 21 department upon a claim therefor."

22

23 **Section 2.** Section 39-71-201, MCA, is amended to read:

24 "**39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
 25 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 26 ~~various statutory occupational safety acts the department and the boiler inspections the department of~~
 27 ~~commerce~~ must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907,
 28 and the uninsured employers' fund, are to be paid upon lawful appropriation. ~~The following money collected~~
 29 ~~by the department must be deposited~~ shall collect and deposit in the state treasury to the credit of the
 30 workers' compensation administrative fund ~~and must be used for the administrative expenses of the~~

1 ~~department and for the administrative expenses of the department of commerce for the purposes of~~
2 ~~50-74-104:~~

3 (a) all fees and penalties provided in 39-71-205 ~~and, 39-71-223, 39-71-304, 39-71-307,~~
4 ~~39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and~~

5 ~~(b) all fees paid for inspection of boilers as required by law;~~

6 ~~(c)(b) all fees taxes FEES paid from by an assessment on each plan No. 1 employer, plan No. 2~~
7 ~~insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar~~
8 ~~year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in~~
9 ~~Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during~~
10 ~~the preceding calendar year. However, an must be 2.15% 2.6% of the following benefits paid during the~~
11 ~~preceding calendar year for injuries covered by the Workers' Compensation Act and the Occupational~~
12 ~~Disease Act without regard to the application of any deductible whether the employer or the insurer pays~~
13 ~~the losses:~~

14 ~~(i) total compensation benefits paid; and~~

15 ~~(ii) except for medical benefits in excess of \$200,000 per occurrence that are exempt from~~
16 ~~assessment, total medical benefits paid for medical treatment rendered to an injured worker, including~~
17 ~~hospital treatment and prescription drugs.~~

18 ~~(2) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan~~
19 ~~No. 3, the state fund, shall file annually on March 31 in the form and containing the information required~~
20 ~~by the department a report of paid losses pursuant to subsection (1)(b).~~

21 ~~(3) An assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200~~
22 ~~\$500. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a~~
23 ~~plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan~~
24 ~~No. 2 insurer is subject to an initial assessment equal to the minimum assessment against plan No. 1~~
25 ~~employers and plan No. 2 insurers.~~

26 ~~(4) Payment of the assessment required by this section must be submitted by the employer under~~
27 ~~plan No. 1, plan No. 2, or plan No. 3 in:~~

28 ~~(a) one installment made on or before ~~June 30~~ JULY 1; or~~

29 ~~(b) two equal installments made on or before ~~June 30~~ JULY 1 and December 31 of each year. If~~
30 ~~an employer or insurer fails to pay the assessment required under this section, the department may impose~~

1 a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%. The assessments
 2 must be sufficient to fund the direct costs identified to the three plans and an equitable portion of the
 3 indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using
 4 proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to
 5 fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3. Other sources
 6 of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs
 7 before levying the assessments.

8 ~~(2)~~(5) The administration fund must be debited with expenses incurred by the department in the
 9 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 10 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 11 through 2-18-503, as amended, incurred while on the business of the department either within or without
 12 the state.

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15
 16 **SECTION 3. SECTION 50-74-219, MCA, IS AMENDED TO READ:**

17 **"50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, a fee**
 18 **must be charged and collected by the department prior to issuance of an inspection certificate in**
 19 **accordance with the following schedule:**

20 ~~(1)~~(a) operating certificate, ~~\$20~~ \$26;

21 ~~(2)~~(b) internal inspection, ~~\$40~~ \$75;

22 ~~(3)~~(c) external inspection:

23 ~~(a)~~(i) hot water heating and supply, ~~\$15~~ \$30;

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25 ~~(c)~~(iii) power boiler, ~~\$30~~ \$55; and

26 ~~(4)~~(d) special inspection, \$50 per hour plus expenses.

27 (2) Fees collected under this section must be deposited in a department state special revenue
 28 account for administration of the boiler inspection program."

29
 30 **NEW SECTION. SECTION 4. WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL.**

1 (1) THERE IS CREATED A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL PURSUANT
2 TO 2-15-122 TO REVIEW THE STATE'S WORKERS' COMPENSATION REGULATORY SYSTEM AND MAKE
3 RECOMMENDATIONS TO THE GOVERNOR REGARDING:

- 4 (A) APPROPRIATE REGULATORY GOALS;
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7 IDENTIFIED GOALS.

8 (2) THE COUNCIL MUST COMPRISE A BROAD SPECTRUM OF PARTIES WHO HAVE A DIRECT
9 INTEREST IN WORKERS' COMPENSATION ISSUES AND MUST INCLUDE BUT IS NOT LIMITED TO
10 REPRESENTATIVES OF:

- 11 (A) WORKERS' COMPENSATION INSURERS;
- 12 (B) INSURED AND SELF-INSURED EMPLOYERS;
- 13 (C) ORGANIZED LABOR;
- 14 (D) THE MONTANA CHAMBER OF COMMERCE;
- 15 (E) THE MONTANA HOSPITAL ASSOCIATION;
- 16 (F) THE MONTANA MEDICAL ASSOCIATION;
- 17 ~~(G) THE MEDIA;~~
- 18 ~~(H)(G) THE DEPARTMENT OF LABOR AND INDUSTRY;~~
- 19 ~~(H)(H) THE MONTANA SENATE;~~
- 20 ~~(J)(I) THE MONTANA HOUSE OF REPRESENTATIVES;~~
- 21 ~~(K)(J) THE PUBLIC.~~

22 (3) THE COUNCIL SHALL SEEK BROAD INPUT FOR THEIR REVIEW, INCLUDING BUT NOT LIMITED
23 TO INFORMATION REGARDING MONTANA'S CURRENT REGULATIONS, NATIONAL BENCHMARKS, AND
24 OTHER STATE REGULATORY SCHEMES.

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26 NEW SECTION. SECTION 5. REQUIRED REPORT. FOR PURPOSES OF FEES ASSESSED ON OR
27 AFTER JULY 1, 1999, EACH PLAN NO. 1 EMPLOYER, PLAN NO. 2 INSURER, AND PLAN NO. 3, THE
28 STATE FUND, SHALL FILE ON MARCH 31, 1999, IN THE FORM AND CONTAINING THE INFORMATION
29 REQUIRED BY THE DEPARTMENT OF LABOR AND INDUSTRY A REPORT OF PAID LOSSES.

30

1 SENATE BILL NO. 290

2 INTRODUCED BY KEATING, SIMON, BURNETT, BENEDICT, HARP, GAGE, COCCHIARELLA, MOOD,
 3 CRISMORE, SHEA, GLASER, KEENAN, MENAHAN, SLITER, SQUIRES, WILSON, EMERSON,
 4 CHRISTIAENS, TASH, HARPER, KITZENBERG, AKLESTAD, PAVLOVICH, THOMAS, GRINDE,
 5 VAN VALKENBURG, ELLIS, FELAND, MAHLUM
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE WORKERS' COMPENSATION
 8 ADMINISTRATION FUND; ELIMINATING ASSESSMENT FUNDING TO THE DEPARTMENT OF COMMERCE
 9 AND PROVIDING SUBSTITUTE FUNDING FOR THE BOILER INSPECTION PROGRAM; CLARIFYING THOSE
 10 FEES THAT ARE DEPOSITED TO THE ADMINISTRATION FUND; REVISING THE METHOD OF ASSESSMENT
 11 AND THE ASSESSMENT BASE; REVISING THE PAYMENT AND COLLECTION REQUIREMENTS; PROVIDING
 12 FOR FORMATION OF A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL; AMENDING
 13 SECTION SECTIONS 39-71-201 AND 50-74-219, MCA; AND PROVIDING EFFECTIVE DATES,
 14 RETROACTIVE APPLICABILITY DATES, AND A TERMINATION DATE."
 15

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

18 **Section 1.** Section 39-71-201, MCA, is amended to read:

19 "**39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
 20 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 21 ~~various statutory occupational safety acts the department and the boiler inspections the department of~~
 22 ~~commerce~~ must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907,
 23 and the uninsured employers' fund, are to be paid upon lawful appropriation. ~~The following money collected~~
 24 ~~by the department must be deposited~~ shall collect and deposit in the state treasury to the credit of the
 25 workers' compensation administrative fund ~~and must be used for the administrative expenses of the~~
 26 ~~department and for the administrative expenses of the department of commerce for the purposes of~~
 27 ~~50-74-101:~~

28 (a) all fees and penalties provided in 39-71-205 ~~and~~, 39-71-223, 39-71-304, 39-71-307,
 29 39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

30 (b) ~~all fees paid for inspection of boilers as required by law;~~

1 ~~(c)~~ all ~~fee taxes~~ **FEES** paid ~~from~~ by an assessment on each plan No. 1 employer, plan No. 2
 2 insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar
 3 year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in
 4 Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during
 5 the preceding calendar year . However, an assessment of the plan No. 1 employer or plan No. 2 insurer
 6 may not be less than ~~\$200~~ \$500. If at any time during the fiscal year a plan No. 1 employer is granted
 7 permission to self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that
 8 plan No. 1 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient
 9 to fund the direct costs identified to the three plans and an equitable portion of the indirect costs based on
 10 the ratio of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and
 11 cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and
 12 an equitable portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including
 13 unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the
 14 assessments.

15 (2) The administration fund must be debited with expenses incurred by the department in the
 16 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 17 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 18 through 2-18-503, as amended, incurred while on the business of the department either within or without
 19 the state.

20 (3) Disbursements from the administration money must be made after being approved by the
 21 department upon a claim therefor."

22

23 **Section 2.** Section 39-71-201, MCA, is amended to read:

24 "**39-71-201. Administration fund.** (1) A workers' compensation administration fund is established
 25 out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the
 26 ~~various statutory occupational safety acts the department and the boiler inspections the department of~~
 27 ~~commerce~~ must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907,
 28 and the uninsured employers' fund, are to be paid upon lawful appropriation. The ~~following money collected~~
 29 ~~by the department must be deposited~~ shall collect and deposit in the state treasury to the credit of the
 30 workers' compensation administrative fund ~~and must be used for the administrative expenses of the~~

1 ~~department and for the administrative expenses of the department of commerce for the purposes of~~
 2 ~~60-74-101:~~

3 (a) all fees and penalties provided in 39-71-205 ~~and~~, 39-71-223, 39-71-304, 39-71-307,
 4 39-71-308, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

5 ~~(b) all fees paid for inspection of boilers as required by law;~~

6 ~~(c)(b) all fees taxes FEES paid from~~ by an assessment on each plan No. 1 employer, plan No. 2
 7 insurer, and plan No. 3, the state fund. The assessments ~~must be levied against the preceding calendar~~
 8 ~~year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in~~
 9 ~~Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during~~
 10 ~~the preceding calendar year. However, an~~ must be 2.15% 2.6% of the following benefits paid during the
 11 preceding calendar year for injuries covered by the Workers' Compensation Act and the Occupational
 12 Disease Act without regard to the application of any deductible whether the employer or the insurer pays
 13 the losses:

14 (i) total compensation benefits paid; and

15 (ii) except for medical benefits in excess of \$200,000 per occurrence that are exempt from
 16 assessment, total medical benefits paid for medical treatment rendered to an injured worker, including
 17 hospital treatment and prescription drugs.

18 (2) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan
 19 No. 3, the state fund, shall file annually on March 31 in the form and containing the information required
 20 by the department a report of paid losses pursuant to subsection (1)(b).

21 (3) An assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200
 22 \$500. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a
 23 plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan
 24 No. 2 insurer is subject to an initial assessment equal to the minimum assessment against plan No. 1
 25 employers and plan No. 2 insurers.

26 (4) Payment of the assessment required by this section must be submitted by the employer under
 27 plan No. 1, plan No. 2, or plan No. 3 in:

28 (a) one installment made on or before ~~June 30~~ JULY 1; or

29 (b) two equal installments made on or before ~~June 30~~ JULY 1 and December 31 of each year. If
 30 an employer or insurer fails to pay the assessment required under this section, the department may impose

1 ~~a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%. The assessments~~
 2 ~~must be sufficient to fund the direct costs identified to the three plans and an equitable portion of the~~
 3 ~~indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using~~
 4 ~~proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to~~
 5 ~~fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3. Other sources~~
 6 ~~of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs~~
 7 ~~before levying the assessments.~~

8 ~~(2)(5)~~ The administration fund must be debited with expenses incurred by the department in the
 9 general administration of the provisions of this chapter, including the salaries of its members, officers, and
 10 employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501
 11 through 2-18-503, as amended, incurred while on the business of the department either within or without
 12 the state.

13 ~~(3)(6)~~ Disbursements from the administration money must be made after being approved by the
 14 department upon claim ~~therefor~~ for disbursement."

15
 16 **SECTION 3. SECTION 50-74-219, MCA, IS AMENDED TO READ:**

17 **"50-74-219. Fee for inspection. (1)** Whenever a department inspector inspects a boiler, a fee
 18 must be charged and collected by the department prior to issuance of an inspection certificate in
 19 accordance with the following schedule:

20 ~~(1)(a)~~ operating certificate, ~~\$20~~ \$26;

21 ~~(2)(b)~~ internal inspection, ~~\$40~~ \$75;

22 ~~(3)(c)~~ external inspection:

23 ~~(a)(i)~~ hot water heating and supply, ~~\$15~~ \$30;

24 ~~(b)(ii)~~ steam heating, ~~\$20~~ \$40; and

25 ~~(c)(iii)~~ power boiler, ~~\$30~~ \$55; and

26 ~~(4)(d)~~ special inspection, \$50 per hour plus expenses.

27 (2) Fees collected under this section must be deposited in a department state special revenue
 28 account for administration of the boiler inspection program."

29
 30 **NEW SECTION. SECTION 4. WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL.**

1 (1) THERE IS CREATED A WORKERS' COMPENSATION REGULATION ADVISORY COUNCIL PURSUANT
 2 TO 2-15-122 TO REVIEW THE STATE'S WORKERS' COMPENSATION REGULATORY SYSTEM AND MAKE
 3 RECOMMENDATIONS TO THE GOVERNOR REGARDING:

4 (A) APPROPRIATE REGULATORY GOALS;

5 (B) NECESSARY REGULATORY ACTIVITIES TO MEET IDENTIFIED GOALS; AND

6 (C) APPROPRIATE AND EQUITABLE FUNDING LEVELS AND FUNDING MECHANISMS TO MEET
 7 IDENTIFIED GOALS.

8 (2) THE COUNCIL MUST COMPRISE A BROAD SPECTRUM OF PARTIES WHO HAVE A DIRECT
 9 INTEREST IN WORKERS' COMPENSATION ISSUES AND MUST INCLUDE BUT IS NOT LIMITED TO
 10 REPRESENTATIVES OF:

11 (A) WORKERS' COMPENSATION INSURERS;

12 (B) INSURED AND SELF-INSURED EMPLOYERS;

13 (C) ORGANIZED LABOR;

14 (D) THE MONTANA CHAMBER OF COMMERCE;

15 (E) THE MONTANA HOSPITAL ASSOCIATION;

16 (F) THE MONTANA MEDICAL ASSOCIATION;

17 ~~(G) THE MEDIA;~~

18 ~~(H)(G) THE DEPARTMENT OF LABOR AND INDUSTRY;~~

19 ~~(H)(H) THE MONTANA SENATE;~~

20 ~~(J)(I) THE MONTANA HOUSE OF REPRESENTATIVES;~~

21 ~~(K)(J) THE PUBLIC.~~

22 (3) THE COUNCIL SHALL SEEK BROAD INPUT FOR THEIR REVIEW, INCLUDING BUT NOT LIMITED
 23 TO INFORMATION REGARDING MONTANA'S CURRENT REGULATIONS, NATIONAL BENCHMARKS, AND
 24 OTHER STATE REGULATORY SCHEMES.

25
 26 NEW SECTION. SECTION 5. REQUIRED REPORT. FOR PURPOSES OF FEES ASSESSED ON OR
 27 AFTER JULY 1, 1999, EACH PLAN NO. 1 EMPLOYER, PLAN NO. 2 INSURER, AND PLAN NO. 3, THE
 28 STATE FUND, SHALL FILE ON MARCH 31, 1999, IN THE FORM AND CONTAINING THE INFORMATION
 29 REQUIRED BY THE DEPARTMENT OF LABOR AND INDUSTRY A REPORT OF PAID LOSSES.
 30

1 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE
2 CODIFIED AS AN INTEGRAL PART OF TITLE 2, CHAPTER 15, AND THE PROVISIONS OF TITLE 2,
3 CHAPTER 15, APPLY TO [SECTION 4].

4

5 NEW SECTION. Section 7. Effective dates -- retroactive applicability. (1) [Sections 1, and 4
6 THROUGH 6, AND 8 and this section] are effective on passage and approval and ~~[section 1] applies~~
7 ~~retroactively, within the meaning of 1-2-109, to taxes collected on or after June 30, 1997.~~

8 (2) [SECTION 1] APPLIES TO FEES ASSESSED ON INSURERS ON OR BEFORE JUNE 30, 1999.

9 ~~(2)(3) [Section 2] is effective July 1, 1999, and applies retroactively, within the meaning of~~
10 ~~1-2-109, to taxes collected on or after June 30, 1998~~ JULY 1, 1999, AND APPLIES TO FEES ASSESSED
11 ON INSURERS ON OR AFTER JULY 1, 1999.

12 (4) [SECTION 3] IS EFFECTIVE JULY 1, 1997.

13

14 NEW SECTION. Section 8. Termination. ~~[Section~~ SECTIONS 1 AND 5] terminates June 30, ~~1998~~
15 1999.

16

-END-