

**SENATE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY**

Helena, Montana
February 3, 1999

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Crippen presiding. Invocation by Pastor Loren Gustafson. Pledge of Allegiance to the Flag.

Roll Call. All members present except Senator Lynch, excused. Quorum present.

Mr. President: We, your committee on Bills and Journal, having examined the daily journal for the twenty-sixth legislative day, find the same to be correct.

Miller, Chairman

MOTIONS

Senator Harp moved the Senate stand in recess until the hour of 1:33 p.m. for purpose of party caucuses. Motion carried.

Senate recessed at 1:03 p.m.

Senate reconvened at 1:42 p.m.

Roll Call. All members present except Senator Lynch, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS AND JOURNAL (Miller, Chairman): 2/3/1999
Correctly printed: SB 206, SB 210, SB 214, SB 219, SB 226, SB 234, SB 257, SB 290, SB 295, SB 365, SB 366, SB 367, SB 368, HB 30, HB 51, HB 80.
Correctly engrossed: SB 74, SB 108, SB 205, SB 227, SB 232, SB 236, SB 272, SB 276.
Correctly enrolled: SB 56, SB 194, SR 2.
Examined by the sponsor and found to be correct: SB 194.
Signed by the Secretary of Senate at 8:00 a.m., February 3, 1999: SB 194.
Signed by the President at 8:00 a.m., February 3, 1999: SB 194.
Signed by the Speaker at 8:40 a.m., February 3, 1999: SB 194.
Delivered to the Governor for his approval at 8:53 a.m., February 3, 1999: SB 194.

BUSINESS AND INDUSTRY (Hertel, Chairman): 2/3/1999
SB 82, introduced bill, be amended as follows:

1. Page 2, lines 2 through 6.

Strike: subsection (4) in its entirety

Insert: "(4) After the proposals have been opened at the time and place designated in the request for proposal, proposal documents may be inspected by the public, subject to the limitations of:

- (a) the Uniform Trade Secrets Act, Title 30, chapter 14, part 4;
- (b) matters involving individual safety as determined by the department;

(c) information requested by the department to establish vendor responsibility unless prior written consent

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has been given by the vendor, pursuant to 18-4-308; and
(d) other constitutional protections."

2. Page 2, line 29.

Following: "44-5-103,"

Insert: "information obtained in the tax reporting processes,"

Strike: "or proprietary business information"

Insert: "personal information protected by an individual privacy interest, or trade secrets as defined in 30-14-402,"

3. Page 3, line 21.

Strike: "and"

4. Page 3, line 22.

Strike: "proprietary business information"

Insert: "personal information protected by an individual privacy interest;

(c) trade secrets, as defined in 30-14-402,"

5. Page 3, line 23.

Following: second "privilege"

Insert: "; and (d) information obtained in the tax reporting processes"

6. Page 6, line 18.

Following: "confidential,"

Insert: ", confidential,"

7. Page 7, line 10.

Strike: "The"

Insert: "Upon the adoption of the examination report under subsection (3)(a), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days, except to the extent provided in subsection (2). After 30 days, the"

8. Page 7, line 22.

Strike: "and proprietary business information"

Insert: "personal information protected by an individual privacy interest, and trade secrets as defined in 30-14-402,"

9. Page 7, line 28.

Strike: "and proprietary business"

Insert: ", trade secrets, and personal"

10. Page 8, line 4.

Strike: "and proprietary business information"

Insert: "personal information protected by an individual privacy interest, and trade secrets as defined in 30-14-402,"

11. Page 8, line 8.

Strike: "and proprietary business"

Insert: ", trade secrets, or personal"

12. Page 8, lines 14 and 15.

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Strike: "proprietary business"
Insert: "trade secrets or personal"

13. Page 11, line 24.

Strike: "except"
Insert: "."

14. Page 11, following line 24.

Strike: lines 25 through 27 in their entirety

15. Page 12, line 3.

Following: "from"
Insert: "the department or"

16. Page 17, line 14.

Strike: "or the owner's vehicle"

17. Page 17, line 15.

Strike: "and"
Insert: "or"

18. Page 17, line 21.

Strike: subsection (a) in its entirety
Renumber: subsequent subsections

19. Page 17, following line 25.

Insert: "(2) Unless the merits of public disclosure exceed the demands of individual privacy, a driving record of a licensee released under subsection (1) may not disclose an individual's address, social security number, photograph, medical or disability information, or information provided through means of a tracking device."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 296, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Mohl, Chairman):

2/3/1999

SB 154, do pass. Report adopted.

LABOR AND EMPLOYMENT RELATIONS (Keating, Chairman):

2/3/1999

SB 117, introduced bill, be amended as follows:

1. Title, page 1, lines 7 and 8.

Following: "COMPENSATION"
Strike: remainder of 7 through "LEGISLATURE" on line 8
Insert: "REGULATORY ASSESSMENT"

2. Title, page 1, line 29.

Following: "FUND;"

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Insert: "REQUIRING THAT PLAN NO. 2 INSURERS AND PLAN NO. 3, THE STATE FUND, IDENTIFY THE COSTS OF THE REGULATORY ASSESSMENT THAT IS COLLECTED FROM INSURERS AS A POLICYHOLDER SURCHARGE BASED ON PREMIUM; AMENDING THE SUBSEQUENT INJURY FUND ASSESSMENT TO PROVIDE THE STATE FUND WITH THE ABILITY TO IDENTIFY THE COST OF THE ASSESSMENT AS A POLICYHOLDER SURCHARGE BASED ON PREMIUM;"

3. Title, page 2, line 1.

Following: "39-71-905,"

Insert: "39-71-915,"

4. Page 4, line 24.

Strike: "administers"

Insert: "is required to administer"

5. Page 8, line 3.

Strike: "administers"

Insert: "is required to administer"

6. Page 8, line 9.

Strike: "3.5%"

Insert: "3%"

7. Page 8, line 18.

Following: "March"

Strike: "31"

Insert: "1"

8. Page 8, line 25.

Following: "employer"

Insert: "or insurer"

9. Page 9, line 1.

Following: page 8, line 30

Insert: "(5) (a) Beginning July 1, 2000, each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, the state fund, shall collect from the insurer's policyholders an amount equal to the insurer's assessment through a surcharge based on premium. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers.

(b) The total of this assessment must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". Each assessment surcharge must be shown as a percentage of the total workers' compensation policyholder premium.

(c) The portion of the plan No. 2 assessment identified as a premium surcharge for an individual plan No. 2 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 2 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 2 insured employers during the preceding calendar year.

(d) The portion of the plan No. 3 assessment identified as a premium surcharge for an individual plan No. 3 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be

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determined by the amount of the plan No. 3 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 3 insured employers during the preceding fiscal year.

(e) On or before March 31, 2000, and each March 31 thereafter, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the insurer assessment identified as the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(f) The assessment provided for in subsection (1)(b), which will be identified as a premium surcharge, must be collected at the same time and in the same manner that the premium for the coverage is collected. This premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium."

Renumber: subsequent subsections

10. Page 10, line 24.

Following: "an insurer"

Insert: "or a third-party administrator"

Following: "who"

Strike: "submits"

Insert: "submitted"

11. Page 10, line 25.

Following: "in"

Strike: "1"

Insert: "the preceding"

12. Page 10, line 26.

Following: "by"

Strike: "the department"

Insert: "department rule"

13. Page 13, line 28.

Following: "practitioner"

Insert: "having substantial experience in the field of medicine concerned with the matters presented by the dispute and"

14. Page 14, line 27.

Following: "~~days~~"

Insert: "within 60 days"

15. Page 14, line 29.

Following: "~~reemployment~~"

Strike: "the application is approved"

Insert: "of employment or reemployment. Certification is effective on the date the application is approved for a person who applies for certification more than 60 days after employment or reemployment, but before an injury occurs"

16. Page 15.

Following: line 1

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Insert: "Section 16. Section 39-71-915, MCA, is amended to read:

"39-71-915. Assessment of insurers -- definition. (1) As used in this section, "paid losses" means the following benefits paid during the preceding calendar year for injuries covered by the Montana Workers' Compensation Act without regard to the application of any deductible regardless of whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

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

(2) The fund must be maintained by assessing each plan No. 1 employer, each plan No. 2 ~~insured employer insurer~~, and plan No. 3, the state fund. The assessment amount is the total amount of paid losses reimbursed from the fund in the preceding calendar year and the expenses of administration less other income. The total assessment amount collected must be allocated among plan No. 1 employers, plan No. 2 ~~insured employers~~ insurers, and plan No. 3, the state fund, based on paid losses for the calendar year preceding the year in which the assessment is collected. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(3) On or before March 31 each year, the department shall notify each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund, of the amount to be assessed against the employer, plan No. 2 insurer, or the state fund for that calendar year. On or before March 31 each year, the department, in consultation with the advisory organization designated under 33-16-1023, shall notify plan No. 2 insurers and plan No. 3 of the premium surcharge rate to be effective for policies written or renewed on and after ~~January 1~~ July 1 in that ~~calendar~~ year.

(4) The portion of the plan No. 1 assessment assessed against an individual plan No. 1 employer is a proportionate amount of total plan No. 1 paid losses during the preceding calendar year that is equal to the percentage that the total paid losses of the individual plan No. 1 employer bore to the total paid losses of all plan No. 1 employers during the preceding calendar year.

(5) The portion of the plan No. 2 assessment subject to premium surcharge for an individual plan No. 2 insured employer is a proportionate amount of total plan No. 2 paid losses during the preceding calendar year that is equal to the percentage that the total paid losses of the individual plan No. 2 insured employer bore to the total paid losses of all plan No. 2 insurers during the preceding calendar year.

(6) The portion of the state fund assessment subject to premium surcharge for a state fund insured employer is a proportionate amount of total state fund paid losses during the preceding calendar year that is equal to the percentage that the total paid losses of the individual state fund insured employer bore to the total paid losses of state fund insured employers during the preceding calendar year.

~~(6)(7)~~ Payment of assessments due must be made to the department semiannually on June 30 and December 31 of the year following the calendar year on which the assessment is based.

~~(7)(8)~~ Each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, the state fund, may shall collect from each of its policyholders an amount equal to the insured employer's fund the assessment through a surcharge based on premium in subsection (2). When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers. The total of this assessment must be stated as a separate cost on an insured employer's policy or on a separate document submitted by the insured employer and must be identified as "workers' compensation ~~policyholder~~ subsequent injury fund surcharge". Each assessment must be shown as a percentage of the total workers' compensation policyholder premium. ~~The~~ This premium surcharge must be collected at the same time and in the same manner that the premium for the coverage is collected. The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium.

~~(8)(9)~~ All assessments paid to the department must be deposited in the fund."

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Renumber: subsequent sections

17. Page 16, line 6.

Following: "is"

Strike: "in fact"

Insert: "medically"

18. Page 17, line 2.

Following: "disclosed"

Insert: ", sold,"

19. Page 17, line 3.

Following: "except to"

Strike: "public"

Insert: "department"

20. Page 17, line 4.

Following: "duties"

Insert: "under Title 39, chapters 71 and 72,"

21. Page 17, line 13.

Strike: "is void"

Insert: ", amending 39-71-201, must read as follows:"

"Section 4. Section 39-71-201, MCA, is amended to read:

"39-71-201. (Temporary) 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 statutory occupational safety acts the department ~~must administer~~ is required to 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 department shall collect and deposit in the state treasury to the credit of the workers' compensation administrative fund:

(a) all fees and penalties provided in 39-71-205, 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 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 than \$500. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the ~~direct costs identified to the three plans and an equitable portion of the indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3.~~ costs of the department's administration of the Worker's Compensation and Occupational Disease Acts and the statutory occupational safety acts administered by the department. The assessment must be apportioned between the three plans using proper accounting and cost allocation procedures. Other sources of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

(2) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of this chapter, including the salaries of its members, officers, and employees and

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the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, as amended, incurred while on the business of the department either within or without the state.

(3) Disbursements from the administration money must be made after being approved by the department upon a claim. (Terminates June 30, 1999--sec. 8, Ch. 385, L. 1997.)

39-71-201. (Effective July 1, 1999) 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 statutory occupational safety acts the department ~~must administer~~ is required to 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 department shall collect and deposit in the state treasury to the credit of the workers' compensation administrative fund:

(a) all fees and penalties provided in 39-71-205, 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 by an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund. The assessments must be 2.6% of the following benefits paid during the preceding calendar year for injuries covered by the Workers' Compensation Act and the Occupational Disease Act without regard to the application of any deductible whether the employer or the insurer pays the losses:

(i) total compensation benefits paid; and

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

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

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

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

(a) one installment made on or before July 1; or

(b) two equal installments made on or before July 1 and December 31 of each year. If an employer or insurer fails to pay the assessment required under this section, the department may impose a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%.

(5) (a) Beginning July 1, 2000, each plan No. 2 insured employer providing workers' compensation insurance and plan No. 3, the state fund, shall collect from the insurer's policyholders an amount equal to the insurer's assessment through a surcharge based on premium. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers.

(b) The total of this assessment must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". Each assessment surcharge must be shown as a percentage of the total workers' compensation policyholder premium.

(c) The portion of the plan No. 2 assessment identified as a premium surcharge for an individual plan No. 2 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 2 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 2 insured employers during the preceding calendar year.

(d) The portion of the plan No. 3 assessment identified as a premium surcharge for an individual plan No. 3 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 3 assessment, as determined in subsection (1)(b), divided by the total net

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premium as calculated under 33-2-705 paid by all plan No. 3 insured employers during the preceding fiscal year.

(e) On or before March 31, 2000, and each March 31 thereafter, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the insurer assessment identified as the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(f) The assessment provided for in subsection (1)(b), which will be identified as a premium surcharge, must be collected at the same time and in the same manner that the premium for the coverage is collected. This premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium.

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

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

22. Page 18, line 18.

Strike: "administers"

Insert: "is required to administer"

23. Page 18, line 24.

Following: "of"

Strike: "levied against"

Insert: "3 % of"

24. Page 19, line 2 through page 19, line 5.

Strike: subsection (c) in its entirety

25. Page 19, line 7.

Following: "March"

Strike: "31"

Insert: "1"

26. Page 19, line 14.

Following: "employer"

Insert: "or insurer"

27. Page 19.

Following: line 19

Insert: "(5)(a) Beginning July 1, 2000, each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, the state fund, shall collect from the insurer's policyholders an amount equal to the insurer's assessment through a surcharge based on premium. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers.

(b) The total of this assessment must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". Each assessment surcharge must be shown as a percentage of the total workers'

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compensation policyholder premium.

(c) The portion of the plan No. 2 assessment identified as a premium surcharge for an individual plan No. 2 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 2 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 2 insured employers during the preceding calendar year.

(d) The portion of the plan No. 3 assessment identified as a premium surcharge for an individual plan No. 3 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 3 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 3 insured employers during the preceding fiscal year.

(e) On or before March 31, 2000, and each March 31 thereafter, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the insurer assessment identified as the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(f) The assessment provided for in subsection (1)(b), which will be identified as a premium surcharge, must be collected at the same time and in the same manner that the premium for the coverage is collected. This premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium."

Renumber: subsequent subsections

28. Page 20, line 3.

Following: "3,"

Strike: "22 through 24, 26, 27"

Insert: "23 through 25, 27, 28"

29. Page 20, line 5.

Following: "1"

Strike: "and"

Insert: ", "

Following: "through"

Strike: "21"

Insert: "15, and 17 through 22"

30. Page 20, line 6.

Following: line 5

Insert: "(3) [Section 16] is effective July 1, 2000."

And, as amended, do pass. Report adopted.

SB 118, introduced bill, be amended as follows:

(New amendment to title to reflect amendment #3 - clerical correction)

Title, line 6

Strike: "3.5"

Insert: "3"

1. Title, line 7.

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Following: "FUND;"

Insert: "REQUIRING THAT PLAN NO. 2 INSURERS AND PLAN NO. 3, THE STATE FUND, IDENTIFY THE COST OF THE REGULATORY ASSESSMENT THAT IS COLLECTED FROM INSURERS AS A POLICYHOLDER SURCHARGE BASED ON PREMIUM;"

2. Page 2, line 14.

Strike: "must"

Insert: "is required to"

3. Page 2, line 21.

Following: "2.6%"

Strike: "3.5%"

Insert: "3%"

4. Page 2, line 30.

Following: "March"

Strike: "31"

Insert: "1"

5. Page 3, line 7.

Following: "employer"

Insert: "or insurer"

6. Page 3.

Following: line 12

Insert: "(5) (a) Beginning July 1, 2000, each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, the state fund, shall collect from the insurer's policyholders an amount equal to the insurer's assessment through a surcharge based on premium. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must be treated as separate costs imposed upon insured employers.

(b) The total of this assessment must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". Each assessment surcharge must be shown as a percentage of the total workers' compensation policyholder premium.

(c) The portion of the plan No. 2 assessment identified as a premium surcharge for an individual plan No. 2 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 2 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 2 insured employers during the preceding calendar year.

(d) The portion of the plan No. 3 assessment identified as a premium surcharge for an individual plan No. 3 insured employer must be calculated as a percentage to be applied to premium. The percentage applied must be determined by the amount of the plan No. 3 assessment, as determined in subsection (1)(b), divided by the total net premium as calculated under 33-2-705 paid by all plan No. 3 insured employers during the preceding fiscal year.

(e) On or before March 31, 2000, and each March 31 thereafter, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the insurer assessment identified as the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(f) The assessment provided for in subsection (1)(b), which will be identified as a premium surcharge, must be collected at the same time and in the same manner that the premium for the coverage is collected. This premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance

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producers' commissions or premium taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of premium."

Renumber: subsequent subsections

7. Page 3, line 24.

Following: "ANNUALLY TO"

Strike: "3.5%"

Insert: "3%"

8. Page 3, lines 26 and 27.

Strike: "3.5%"

Insert: "3%"

Following: "on" on line 26

Strike: "plan No. 1" on line 26 through "state fund" on line 27

Insert: "workers' compensation insurers"

9. Page 3, lines 28 and 29.

Strike: "3.5%"

Insert: "3%"

Following: "on" on line 28

Strike: "plan No. 1" on line 28 through "state fund" on line 29

Insert: "workers' compensation insurers"

10. Page 4, line 5.

Following: "electorate"

Strike: "or on July 1, 1999, whichever occurs first"

And, as amended, do pass. Report adopted.

STATE ADMINISTRATION (Cole, Chairman):

2/3/1999

SB 317, do pass. Report adopted.

HB 55, be concurred. Report adopted.

MESSAGES FROM THE GOVERNOR

February 2, 1999

The Honorable Bruce Crippen
President of the Senate
State Capitol
Helena, Montana 59620

Dear Senator Crippen:

Please be informed that I have signed **Senate Bill 80** sponsored by Senator C. Swysgood on February 2, 1999.

Sincerely,

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MARC RACICOT
Governor

MESSAGES FROM THE OTHER HOUSE

Senate bill concurred in and returned to the Senate: 2/2/1999

SB 194, introduced by M. Halligan

House bills passed and transmitted to the Senate for concurrence: 2/2/1999

HB 24, introduced by L. Soft

HB 107, introduced by L. McCulloch

HB 153, introduced by D. Hedges

HB 230, introduced by J. Holden

HB 281, introduced by R. Johnson

HB 282, introduced by R. Johnson

HB 320, introduced by D. Ewer

HB 321, introduced by D. Fuchs

HB 322, introduced by D. Fuchs

HB 339, introduced by P. Sliter

HB 360, introduced by R. Clark

HB 382, introduced by S. Rose

House joint resolution passed and transmitted to the Senate for concurrence: 2/2/1999

HJR 3, introduced by K. Ohs

MOTIONS

SB 270 - Senator Swysgood moved that SB 270 be taken from the second reading board this legislative day and rereferred to the Committee on Finance and Claims. Motion carried.

SB 150 - Senator Jergeson moved that SB 150 be taken from the second reading board this legislative day and rereferred to the Committee on Finance and Claims. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 369, introduced by K. Miller, referred to Business and Industry.

SB 370, introduced by B. Stang, referred to Taxation.

SB 371, introduced by K. Mesaros, L. Grosfield, S. Rose, B. Tash, referred to Natural Resources.

SB 372, introduced by M. Halligan, referred to Judiciary.

SB 373, introduced by J. Ellingson, S. Bartlett, A. Bishop, B. Crippen, T. Dell, S. Doherty, D. Ewer, E. Franklin, L. Grosfield, G. Gutsche, M. Halligan, G. Roush, J. Stovall, J. Tester, referred to Business and Industry.

SB 374, introduced by J. Lynch, S. Gallus, D. Harrington, B. McCarthy, R. Menahan, B. Pavlovich, J. Quilici, D. Shea, C. Swysgood, referred to Highways and Transportation.

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SB 375, introduced by J. Bohlinger, referred to Taxation.

SB 376, introduced by B. McCarthy, S. Anderson, G. Beck, T. Beck, S. Gallus, D. Harrington, J. Lynch, R. Menahan, D. Mood, B. Pavlovich, J. Quilici, D. Shea, C. Swysgood, B. Tash, referred to Natural Resources.

SB 377, introduced by B. Stang, referred to Business and Industry.

SB 378, introduced by B. Stang, referred to Business and Industry.

SB 379, introduced by B. Stang, referred to Business and Industry.

SB 380, introduced by J. Lynch, A. Bishop, J. Cobb, B. Crippen, D. Eck, D. Ewer, D. Haines, M. Halligan, D. Harrington, D. Mahlum, referred to Taxation.

The following House bills were introduced, read first time, and referred to committees:

HB 24, introduced by L. Soft (by request of the Joint Oversight Committee on Children and Families), referred to Judiciary.

HB 107, introduced by L. McCulloch (by request of the State Library Commission), referred to Local Government.

HB 153, introduced by D. Hedges (by request of the Board of Funeral Service), referred to Business and Industry.

HB 230, introduced by J. Holden, referred to Local Government.

HB 281, introduced by R. Johnson, referred to Business and Industry.

HB 282, introduced by R. Johnson, referred to Business and Industry.

HB 320, introduced by D. Ewer, G. Golie, R. Peck, J. Quilici, B. Rehbein, S. Rose, R. Somerville, referred to Local Government.

HB 321, introduced by D. Fuchs, C. Squires, referred to Business and Industry.

HB 322, introduced by D. Fuchs, C. Squires, referred to Business and Industry.

HB 360, introduced by R. Clark, M. Cole, referred to Local Government.

HB 382, introduced by S. Rose, referred to Judiciary.

The following House joint resolution was introduced, read first time, and referred to committee:

HJR 3, introduced by K. Ohs, L. Grosfield (by request of the Environmental Quality Council), referred to Natural Resources.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Harp moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Mahlum in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 225 - Senator J. Hertel moved SB 225 do pass. Motion carried as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Hertel, Jabs, Jergeson, Keating, Mahlum, McCarthy, McNutt, Miller, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.

Total 38

Nays: Devlin, Ekegren, Harp, Holden, Keenan, Mesaros, Mohl, Nelson, Swysgood, Taylor, Toews.

Total 11

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Absent or not voting: None.
Total 0

Excused: Lynch.
Total 1

SB 3 - Senator D. Toews moved SB 3 do pass. Motion **failed** as follows:

Yeas: Beck, Bishop, Crismore, DePratu, Devlin, Ellis, Glaser, Grimes, Grosfield, Harp, Hertel, Holden, Keating, Keenan, Mesaros, Miller, Mohl, Swysgood, Toews, Wells, Mr. President.
Total 21

Nays: Bartlett, Berry, Bohlinger, Christiaens, Cocchiarella, Cole, Doherty, Eck, Ekegren, Ellingson, Franklin, Halligan, Hargrove, Jabs, Jergeson, Mahlum, McCarthy, McNutt, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wilson.
Total 28

Absent or not voting: None.
Total 0

Excused: Lynch.
Total 1

SB 3 - Senator Thomas moved to indefinitely postpone SB 3. Motion carried as follows:

Yeas: Bartlett, Berry, Christiaens, Cocchiarella, Cole, DePratu, Doherty, Eck, Ekegren, Ellingson, Franklin, Grimes, Grosfield, Halligan, Hargrove, Jabs, Jergeson, Mahlum, McCarthy, McNutt, Nelson, Roush, Shea, Sprague, Stang, Taylor, Tester, Thomas, Waterman, Wilson.
Total 30

Nays: Beck, Bishop, Bohlinger, Crismore, Devlin, Glaser, Harp, Hertel, Holden, Keating, Keenan, Mesaros, Miller, Mohl, Swysgood, Toews, Wells, Mr. President.
Total 18

Absent or not voting: Ellis.
Total 1

Excused: Lynch.
Total 1

SB 197 - Senator C. Christiaens moved SB 197 do pass. Motion carried as follows:

Yeas: Bartlett, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Grimes, Grosfield, Halligan, Hargrove, Harp, Jabs, Jergeson, Mahlum, McCarthy, McNutt, Nelson, Roush, Shea, Sprague, Stang, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 33

Nays: Beck, Cole, Crismore, Devlin, Glaser, Hertel, Holden, Keating, Keenan, Mesaros, Miller, Mohl, Swysgood, Taylor, Toews, Wells.

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Total 16

Absent or not voting: None.

Total 0

Excused: Lynch.

Total 1

SB 246 - Senator B. Crippen moved that consideration of SB 246 be passed for the day. Motion carried.

SB 274 - Senator B. Wilson moved SB 274 do pass. Motion carried as follows:

Yeas: Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 47

Nays: Bartlett, Jergeson.

Total 2

Absent or not voting: None.

Total 0

Excused: Lynch.

Total 1

Senator Harp moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Crippen in the chair. Chairman Mahlum moved the Committee of the Whole report be adopted. Report adopted.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 205 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.

Total 48

Nays: Miller.

Total 1

Absent or not voting: None.

Total 0

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Excused: Lynch.
Total 1

SB 206 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Lynch.
Total 1

SB 210 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Roush, Shea, Sprague, Tester, Thomas, Waterman, Wilson, Mr. President.
Total 40

Nays: Devlin, Keenan, Miller, Mohl, Nelson, Stang, Swysgood, Taylor, Toews, Wells.
Total 10

Paired: Lynch, Aye; Toews, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 214 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: None.
Total 0

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Absent or not voting: None.
Total 0

Excused: Lynch.
Total 1

SB 219 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Devlin, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Lynch, Mahlum, McCarthy, McNutt, Mesaros, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Waterman, Wells, Wilson, Mr. President.
Total 49

Nays: Toews.
Total 1

Paired: Lynch, Aye; Toews, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 226 passed as follows:

Yeas: Bartlett, Beck, Berry, Bishop, Bohlinger, Christiaens, Cocchiarella, Cole, Crismore, DePratu, Doherty, Eck, Ekegren, Ellingson, Ellis, Franklin, Glaser, Grimes, Grosfield, Halligan, Hargrove, Harp, Hertel, Holden, Jabs, Jergeson, Keating, Keenan, Mahlum, McCarthy, McNutt, Miller, Mohl, Nelson, Roush, Shea, Sprague, Stang, Swysgood, Taylor, Tester, Thomas, Toews, Waterman, Wells, Wilson, Mr. President.
Total 47

Nays: Devlin, Mesaros.
Total 2

Absent or not voting: None.
Total 0

Excused: Lynch.
Total 1

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Majority Leader Harp moved that the Senate adjourn until 1:00 p.m., Thursday, February 4, 1999. Motion carried.

Senate adjourned at 3:06 p.m.

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ROSANA SKELTON
Secretary of Senate

BRUCE CRIPPEN
President of the Senate