

## REFERENDUM MEASURE NO. 27

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"An Act to Repeal Sections 671, 672, 673, 674, 675 and 676 of the Revised Codes of Montana 1921, these sections now being what was initiative measure entitled 'A Bill to propose by initiative petition a law to provide for the expression by the people of the State of Montana of their preference of party candidates for President and Vice-President of the United States, the election of delegates to presidential conventions and the nomination of presidential electors by direct vote,' initiated and passed by the people of the State of Montana at the General Election of 1912."

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To Be Voted Upon at the General Election, November 4, 1924.

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Published as Required by Section 105, Revised Codes of 1921, at Helena, Montana.

CHARLES T. STEWART,

Secretary of State.

THE NUMBER AND FORM IN WHICH THE QUESTION  
WILL APPEAR UPON A SEPARATE OFFICIAL BAL-  
LOT AT THE GENERAL ELECTION NOVEM-  
BER 4, 1924, IS AS FOLLOWS:

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FOR Repeal of the Presidential Primary Law.

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AGAINST Repeal of the Presidential Primary Law.

Each elector shall designate his preference by marking an X in the square before the proposition for which such elector desires to vote.



INDEPENDENT PUBLISHING CO.  
HELENA, MONTANA

# Proposed Compensation Act

To be Initiated and Voted  
on at the General Election  
held in November, 1924

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# Proposed Compensation Act

An act providing for the protection, health and safety of workmen in all employments and places of employment and for the inspection and regulation of employments and places of employment in all hazardous works and occupations; providing a schedule of compensation for injury to or death of workmen and methods of paying the same and prescribing the liability of employers who do not pay such compensation; establishing the industrial accident board, defining its powers and duties; providing for a review of its awards; providing for the creation and maintenance of certain funds; and providing for the repeal of all conflicting provisions of sections 2816 to 3033, inclusive, Revised Codes of Montana, 1921.

Be It Enacted by the People of the State of Montana:

## General Provisions.

Section 1. This act and each and every part thereof is an expression of the police power and is also intended to make effective and apply a complete system of workmen's compensation, inclusive of adequate provision for the comfort, health, safety and general welfare of any and all employees and those dependent upon them for support to the extent of relieving from the consequences of any injury incurred by employees in the course of their employment, irrespective of the fault of any party; also provision for securing safety in places of employment, provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure or relieve from the effects of such injury, provision for adequate compensation, provision for regulating such compensation coverage against the liability to pay or furnish compensation, provisions for regulating such compensation coverage in all its aspects, including the establishment and management of a state compensation insurance fund, provision for vesting power, authority and jurisdiction in an administrative body with the requisite governmental functions to determine any matter arising under this act to the end that the administration of this act shall accomplish substantial justice in all cases expeditiously, inexpensively and without encumbrance of any character; all of which matters contained in this section are expressly declared to be the social, public policy of this state, binding upon all departments of the state government.

Section 2. This act shall be known and may be cited as the "Workmen's Compensation and Safety Act" and shall apply to the subjects mentioned in its title, provided, however, that no subject matter in the text of the act shall be held invalid because not specifically enumerated in the title of the act.

Section 3. There is hereby created a board to consist of three members; the commissioner of agriculture, labor and industry shall be one member, the state auditor shall be one member, and one member shall be appointed by the governor, which board shall be known as the "Industrial Accident Board" and shall have the powers, duties and functions hereinafter conferred. The term of the office of the appointed member of the board shall be for four years, and until his successor shall have been appointed and qualified. He shall receive an annual salary of six thousand (\$6,000.00) dollars, payable monthly, and shall be the chairman of the board and the active head thereof. The board shall elect one of their number as treasurer of the board.

Section 4. A vacancy in the office of the appointed member of the board shall be filled in the same manner as the original ap-

pointment, but shall only be for the unexpired term of such vacancy. The appointed member shall not be removed except for cause and after a hearing had before and a finding made by the remaining members of the board and both of the remaining members of the board must concur in the removal of the appointed member.

Section 5. Each member shall, before entering upon the duties of his office, execute to the state of Montana and file with the Secretary of State a bond in the sum herein prescribed, which bond shall be executed by some surety company authorized to become sole surety on bonds in the State of Montana, the amount of such bond to be fixed by the governor and the bond to be conditioned that the member will faithfully and impartially discharge the duties of his office. Such bonds shall be in addition to any other bonds required by law to be furnished and shall be for the treasurer of the board not less than ten thousand (\$10,000.00) dollars nor more than fifty thousand (\$50,000.00) dollars; for the chairman of the board not less than five thousand (\$5,000.00) dollars nor more than twenty-five thousand (\$25,000.00) dollars; for the remaining member of the board not less than two thousand (\$2,000.00) dollars nor more than ten thousand (\$10,000.00) dollars.

Section 6. Neither the commissioner of agriculture, labor and industry nor the state auditor shall receive any additional compensation for the duties imposed upon them by this act.

Section 7. A majority of the board shall constitute a quorum for the transaction of any business. A vacancy on the board shall not impair the right of the remaining members to perform all of the duties and exercise all the powers and authority of the board. The act of the majority of the board when in session as a board shall be deemed to be the act of the board, but any investigation, inquiry, or hearing which the board has power to undertake or to hold, may be undertaken or held by, or before, any member thereof, or any examiner, or referee appointed by the board for that purpose. Every finding, order, decision, or award made by any commissioner, examiner, or referee pursuant to such investigation, inquiry or hearing, when approved and confirmed by the board and ordered filed in its office shall be deemed to be the finding, order, decision, or award of the board.

Section 8. The board shall have a seal bearing the following inscription: "Industrial Accident Board, State of Montana, Seal." The seal shall be affixed to all writs and authentications of copies of records and to such other instruments as the board shall direct. All courts shall take judicial notice of said seal.

Section 9. The board shall keep its principal office in the Capital of the State and shall be provided with suitable rooms, necessary office furniture, stationery and other supplies. For the purpose of holding sessions or maintaining branch offices, the board shall have the power to rent quarters.

Section 10. The board shall appoint a secretary, who shall hold office at the pleasure of and whose remuneration shall be fixed by the board. It shall be the duty of the secretary to keep a full and true record of all the proceedings of the board, to issue all necessary processes, writs, warrants and notices which the board is required or authorized to issue and generally to perform such other duties as the board may prescribe. The board shall also employ a chief accountant, a superintendent of safety, a chief claims adjuster, and a civilian rehabilitation agent, all of whom shall be officers of the board and whose duties, salaries and tenures of office shall be fixed by the board. The board may also appoint not to exceed four inspectors of boilers and hazardous plants, one coal mine inspector

and two inspectors of quartz mines, all of whose terms of office shall be at the pleasure of the board and whose salaries shall be fixed thereby. Such inspectors shall carry out the duties prescribed by the law and such orders as they may receive from the board. All such other assistants and employees as may be required to carry out the provisions of this act shall be employed by the board. Their respective salaries, terms of employment and duties shall be fixed by the board, and it may require the execution of a surety bond in an amount and upon such conditions as the board deems advisable for any officer or employee. Payment of premium upon such bonds shall be considered as part of the maintenance cost of the activities of the board.

Section 11. The salaries of the chairman of the board, secretary and other officers thereof and of all assistants and employees holding office or employment under the board, as fixed by law or the board, shall be paid monthly after being approved by the board upon claims therefor to be audited and approved by the state board of examiners.

Section 12. All expenses incurred by the board pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the members thereof, its officers and employees incurred while on business of the board, either within or without the state, shall, unless otherwise provided in this act, be paid from appropriations to be made for the maintenance of the board and the activities under its administration, upon claims therefor to be audited and approved by the state board of examiners.

Section 13. The board shall cause to be printed such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act. It shall provide a book in which shall be entered the minutes of all its proceedings and other records in which shall be recorded all awards made by the board and such other books or records as it shall deem requisite for the purpose and efficient administration of this act. All such records shall be kept in the office of the board.

Section 14. The board shall have the power and authority to publish and distribute, at its discretion, from time to time, in addition to its annual report, such further reports and bulletins covering its operations, proceedings, and matters relative to its work as it may deem advisable.

Section 15. The board shall have power and authority to charge and collect the following fees:

1. For copies of papers and records not required to be certified or otherwise authenticated by the board, ten cents for each folio; for certified copies of official documents and orders filed in its office, or of the evidence taken at any hearing, fifteen cents for each folio.

2. To fix and collect reasonable charges for publications issued under its authority.

3. The fees charged and collected under this section shall be paid monthly into the treasury of the state to the credit of the Industrial Administrative Fund and shall be accompanied by detailed statement thereof.

Section 15. The attorney general shall designate one member of his staff to be the legal adviser of the board and the attorney general or the member designated by him, shall represent it in all proceedings whenever so requested by the board, or any member thereof.

Section 16. No information furnished to the Board by an employer shall be open to public inspection, or made public except by the board or a member thereof in the course of a hearing or proceeding. Any officer or employee of the board, who, in violation of the provisions of this section, divulges any information shall be guilty of a misdemeanor.

Section 17. Copies of official documents and orders filed or deposited according to law in the office of the board, certified by a member of the board or by the secretary under the official seal of the board to be true copies of the original shall be evidence in like manner as the originals.

Section 18. If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of this act is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this act, so long as sufficient remains of the act to render the same operative and reasonably affective for carrying out the main purpose and intention of the people of Montana in enacting the same as such purpose and intention may be disclosed by the act.

Section 19. The board shall, not later than the first day of October of each year, make a report to the governor covering its operations and proceedings for the preceding fiscal year, with such suggestions or recommendations as it may deem of value for public information. A reasonable number of copies of such report may be printed for general distribution.

#### **Provisions Governing Procedure.**

Section 20. All hearings and investigations before the board, or any member or officer thereof shall be governed by this act and by rules of practice and procedure to be adopted by the board, and in the conduct thereof, neither the board, nor any member or officer thereof, shall be bound by the technical rules of evidence. No informality in any proceedings, or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved, or confirmed by the board.

Section 21. The board, or any member or officer thereof or any party to an action or proceeding may, in any investigation or hearing before the board or any officer or member thereof, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the district courts of this state, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts.

Section 22. The board, and each member and officer thereof shall have the power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Each witness who shall appear, by order of the board, or any member thereof, shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the board. When any witness, who has not been required to attend at the request of any party, is subpoenaed by the board, or any member or officer thereof, his fees and mileage may be paid from the funds appropriated for the uses of the board in the same manner as other expenses of the board are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the



funds of the board, may at the time of service demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If a witness demands such fees at the time of service and they are not at that time paid or tendered, he shall not be required to attend before the board or any member or officer thereof, as directed in the subpoena.

Section 23. The board and each member thereof shall have power to issue writs of summons, warrants of attachment, warrants of commitment, and all necessary processes in proceedings for contempt in like manner and to the same extent as courts of record. The processes issued by the board or any member or officer thereof, shall extend to all parts of the state and may be served by any persons authorized to serve processes of courts of record, or by any person designated for that purpose by the board or any member or officer thereof. The person executing any such process shall receive such compensation as may be allowed by the board, not to exceed the fees now prescribed by law for similar service and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

Section 24. The district court in and for the county in which any inquiry, investigation, hearing or proceeding may be held by the board, or any member or officer thereof, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, books, accounts and documents as required by any subpoena issued by the board or any member or officer thereof. The board, or any member or officer thereof, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or procure any papers required by such subpoena, may report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place fixed for the attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed to attend or produce the papers required by the subpoena before the board or any member or officer thereof in the case of proceeding named in the notice and subpoena, or has refused to answer questions pronounced to him in the course of such proceedings, and ask an order of said court compelling the witness to attend and testify or produce said papers before the said board or any member or officer thereof. The court, upon the petition of the board or any member or officer thereof shall enter an order directing the witness to appear before the court at the time and place to be fixed by the court in such order not more than ten days from the date of the order and then and there to show cause why he did not attend or testify or produce such papers before the board or any member or officer thereof. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the board or a member or officer thereof, and regularly served, the court shall thereupon enter an order that such witness appear at the time and place fixed in said order and testify and produce the required papers and may deal with said witness for contempt of an order of the board or a member or officer thereof, to all intents and purposes as though the witness was in contempt of a similar order of the court, and upon failure of the witness to obey the order of the court directing his appearance or the production of required testimony, said witness shall be dealt with for contempt of court. The remedy provided in this section is cumulative and shall not be construed to impair or interfere with the power of the board, or any member or officer thereof, to enforce the attendance of witnesses and the production of papers and to bring about the



punishment for contempt, in the same manner and to the same extent as courts of record.

Section 25. The costs and disbursements, incurred in any proceedings or hearing before the board, or any member or officer thereof, may be apportioned between the parties on the same or adverse sides in the discretion of the board.

Section 26. All proceedings to determine disputes or controversies arising under this act shall be instituted before the board and not elsewhere, and heard and determined by them, except as otherwise in this act provided, and the board is hereby vested with full power, authority and jurisdiction to try and finally determine all such matters, subject only to review in the manner and within the time in this act provided. In all such cases, the party complaining shall file his application with the board with proof of service of a copy on the adverse party. Such adverse party shall file his answer thereto with the board within twenty days after such service with proof of service of a copy of such answer on the party making the application. In the event that the pleadings filed justify the board in concluding that the matter at controversy deserves a hearing, it shall notify the parties of a time and place for such hearing, giving each party at least ten days notice concerning the same.

Section 27. The books, records, and payrolls of the employer, pertinent to the administration of this act shall always be open to inspection by the board or any duly authorized person thereof, for the purpose of ascertaining the correctness of the payroll; the number of men employed, and such other information as may be necessary for the board, its members and officers thereof. Refusal on the part of the employer to submit said books, records and payrolls for such inspection, shall subject the offending employer to a penalty not less than one hundred (\$100.00) dollars and not more than the amount of his annual premium assessment, for each offense, to be collected by civil action in the name of the state, and paid into the industrial administrative fund.

Section 28. All orders, rules, regulations, findings, decisions, and awards, of the board in conformity with law shall be in force and shall be prima facie lawful; and all such orders, rules, regulations, findings, decisions and awards shall be conclusively presumed to be reasonable and lawful, unless and until they are modified or set aside by the board or upon review.

Section 29. After a final hearing by the board, it shall within thirty days make and file its findings upon all facts involved in the controversy, and its awards, which shall state its determination as to the rights of the parties.

Section 30. The board, in any compensation award, may fix and determine the total amount of compensation to be paid and specify the manner of payment or may fix and determine the weekly disability indemnity to be paid and order the payment thereof during the continuance of such disability; providing, however, that the payment of such award and indemnity shall be in the same manner as that of undisputed awards and indemnities provided for in this act.

Section 31. The board shall have continuing jurisdiction over all its orders, decisions, and awards, and may, at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter or amend any such order, decision or award made by it upon good cause appearing thereof. Any order, decision, or award rescinding, altering, or amending a prior order, decision, or award, shall have the same effect as original orders or awards.

Section 32. A full and complete record shall be kept of all proceedings had before the board or any member or officer thereof of any formal hearing had and all testimony produced before the board or any member or officer thereof, shall be taken down by a stenographic reporter appointed by the board, and the parties shall be entitled to be heard in person or by attorney. In cases of an action to review any order or decision, a transcript of such testimony, together with all exhibits, and of the pleadings, records and proceedings in the case shall constitute the record of the board. No order or decision of the board shall be subject to collateral attack, and may be reviewed or modified only in the manner provided herein.

Section 33. At any time within twenty days after the service of any order or decision of the board, any party or parties aggrieved thereby may apply for a rehearing upon one or more of the following grounds and upon no other grounds.

1. That the board acted without or in excess of its powers.
2. That the order, decision, or award was procured by fraud.
3. That the evidence does not justify the findings.
4. That the applicant has discovered new evidence, material to him, and which he could not, with reasonable diligence, have discovered and produced at the hearing.
5. That the findings do not support the order, decision or award.
6. That the order, decision, or award is unreasonable.

Section 34. Nothing contained in the preceding section shall, however, be construed to limit the right of the board, at any time after the date of its award, and from time to time after due notice and upon the application of any party interested, to review, diminish or increase within the limits provided by this act, any compensation awarded upon the ground that the disability of the person in whose favor such award was made has either increased, diminished or terminated.

Section 35. The application for rehearing shall set forth specifically and in full detail the grounds upon which the applicant considers said order, decision, award, rule, or regulation to be unjust or unlawful, and shall in other respects conform to such rules and regulations as the board may prescribe.

Section 36. The board shall have full power and authority to make and prescribe rules to govern the procedure upon rehearing and any matter before it and any order made after such hearing abrogating or changing the original order shall have the same force and effect as an original order and shall not effect any right, or enforcement of any right, arising from or by virtue of the original order.

Section 37. Any application for rehearing or the appeal herein-after provided shall not excuse any employer, employee, or other person, from complying with or obeying any order or requirement of the board, or operate in any manner to stay or postpone the enforcement of an order or requirement thereof, except as the board or the court may direct.

Section 38. Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, and within twenty days after notice thereof, any party affected thereby may appeal to the District Court of the Judicial District of the State of Montana, including the county in said state wherein the employer may have his place of residence, or if such employer be a corporation, may have its principal office or place of business, or if said appeal be prosecuted by an injured workman or his dependents, such ap-

peal may be taken to the District Court wherein is located the county within which such workman was injured, which said appeal shall be for the purpose of having the lawfulness of the original order, decision or award, or the order, decision or award on rehearing inquired into and determined.

Section 39. Said appeal shall be taken by serving a written notice of said appeal upon the chairman of such industrial accident board, or upon any other member thereof, which said service shall be made by the delivery of a copy of such notice to such chairman or member, and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon the adversary party if there be any, by mailing the same to said adversary party to such address of such party as said party shall have left with the board. If such party shall have left no address with the board then no service upon such party shall be required. The order of filing and service of said notice is immaterial. Immediately upon service upon said board of said notice, the said board shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said board, with the clerk of said district court. Immediately upon the return of such certified record, the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the board and upon the appellant, and also upon the adversary party, if there be any. The court may, upon the hearing, for good cause shown, permit additional evidence to be introduced, but, in the absence of such permission from the court, the cause shall be heard on the record of the board as certified to the court by it. The trial of the matter shall be de nova, and upon such trial the court shall determine whether or not the board regularly pursued its authority, and whether or not the findings of the board ought to be sustained, and whether or not such findings are reasonable under all the circumstances of the case.

Section 40. The board, and each party to the action or proceeding before the board, shall have the right to appear in the proceeding, and it shall be the duty of the board to so appear. If the court shall find from such trial, as aforesaid, that the findings and conclusions of the board are not in accordance with either the facts or the law, or that they ought to be other or different than those made by the board, or that any finding or conclusion or any order, rule or requirement of the board is unreasonable, the court shall set aside such findings, conclusions, order, judgment, decree, rule or requirement of said board, or shall modify or change the same as law and justice shall require, and the court shall also make and enter any finding, conclusion, order or judgment that shall be required, or shall be legal and proper in the premises.

Section 41. Either the board, or the appellant, or any adversary party, if there be one, may appeal to the supreme court of the state of Montana, from any final order, judgment or decree of the said district court, which said appeal shall be taken in like manner as appeals are now taken in other civil actions to the said supreme court, and upon such appeal the said supreme court shall make such orders in reference to a stay of proceedings as it finds to be just in the premises, and may stay the operation of any order, judgment, or decree of said district court without requiring any bond or undertaking from the applicant for such stay. When any such cause is so appealed it shall have precedence upon the calendar of said supreme court, and judgment and decree shall be entered therein as expeditiously as possible.

Section 42. The board is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether

herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of any power, authority, or jurisdiction conferred upon it under this act.

#### **Definition of Terms.**

Section 43. "Board" means the industrial accident board of the state of Montana as constituted under this act.

Section 44. "Commissioner" when used in this act or in any order, decision, or award made under the provisions of this act means one of the members of the Industrial Accident Board.

Section 45. "Employer" means the state, and each county, city and county, city, school district, irrigation district, all other districts established by law, and all public corporations and quasi-public corporations and public agencies therein and every person, firm, voluntary association, and private corporation, including any public service corporation and including an independent contractor, who has any person in service, in hazardous employment as herein defined, under any appointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representative of any deceased employer or the receiver or trustee thereof.

Section 46. "Employee" and "workman" are used synonymously and mean every person in this state, including a contractor other than an "independent contractor," who is in the service of an employer as defined by the preceding section, under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens and also including minors, whether lawfully or unlawfully employed, and all elected and appointed paid public officers and all officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay but excluding any person whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and also excluding any employee engaged in household, domestic service, farm, dairy, agricultural, viticultural or horticultural labor, in stock or poultry raising, except as hereinafter provided, and any person who as a public officer or public official or as the executive officer of a business concern receives a salary in excess of three thousand (\$3,000.00) dollars per year. Provided, however, that the provisions of this act shall not apply to any railroad engaged in interstate commerce except that railroad construction work shall be included in and subject to the provisions of this act.

Section 47. "Hazardous" employment means any employment in which one or more employees are regularly employed in the same business, or in and about the same establishment except household and domestic service, farm, dairy, agricultural, viticultural or horticultural and stock and poultry raising and excepting the operation and maintenance of steam railroads engaged in interstate commerce, provided, however, if there now be or hereafter arise any occupation or employment that is not in fact hazardous, the employer or employers therein may make sufficient and proper showing that such occupation or employment is not in fact hazardous, to the board, and the board shall, after a hearing, if it find issue an order excluding such occupation or employment from the terms of the act. Any such order issued by the board shall be subject to review in like manner as other board orders.

Section 48. "Casual employment" as used in this act shall mean only employment where the work contemplated is to be completed in not exceeding ten working days, without regard to the number of

men employed, and where the total labor cost of such work is less than one hundred (\$100.00) dollars. The phrase "course of the trade, business, profession or occupation of his employer" shall be taken to include all services tending toward the preservation, maintenance or operation of the business, business premises or business property of the employer. The words "trade, business, profession, or occupation of his employer" shall be taken to include any undertaking actually engaged in by him with some degree of regularity, the trade name, articles of incorporation or principal business of the employer to the contrary notwithstanding.

Section 49. "Independent contractor" is one who renders service in the course of an occupation, other than manual labor, representing the will of his employer, only as to the result of his work, and not as to the means by which it is accomplished. The working member of a partnership or association receiving wages irrespective of profits from such partnership or association shall be deemed an employee within the meaning of this act.

Section 50. "Injury" or "injured" refers only to an accidental injury arising out of and in the course of the employment, and such disease or infection as may naturally result from the employment, provided, however, that injury resulting from disease or infection shall not be subject to this act unless it is attributable to the occupation or occupations in which the employee has been engaged and is reasonably attributable to his employment in such occupation or occupations within the state of Montana.

Section 51. "Beneficiary" means and shall include a surviving wife or husband, and a surviving child or children under the age of eighteen years, and an invalid child or invalid children over the age of eighteen years, or if no surviving wife or husband, then a surviving child or children under the age of eighteen years and an invalid child or invalid children over the age of eighteen years, provided, however, that no invalid child over the age of eighteen years shall be considered a beneficiary, unless dependent upon the decedent for support at the time of injury.

Section 52. "Major dependent" means if there be no beneficiary as defined in the preceding section, the father and mother, or the survivor of them, if actually dependent to any extent upon the decedent at the time of his injury.

Section 53. "Minor dependent" means if there be no beneficiary or major dependent as defined in the preceding sections, the brothers and sisters under the age of eighteen years and invalid brothers and invalid sisters over the age of eighteen years, provided, however, that no invalid brother or invalid sister over the age of eighteen years shall be a "minor dependent" unless actually dependent upon the decedent at the time of his injury.

Section 54. "Invalid" means one who is physically or mentally incapacitated.

Section 55. "Wife" or "widow" means only the wife or widow living with or legally entitled to be supported by the deceased at the time of the injury.

Section 56. "Husband" or "widower" means only a husband or widower incapable of supporting himself and living with, or legally entitled to be supported by the deceased at the time of her injury.

Section 57. "Child" includes step-children, adopted children, posthumous children, and illegitimate children legitimized prior to the injury, but does not include married children unless dependent.

Section 58. "Brother" and "sister" includes step-brother and step-sisters, half-brothers and half-sisters and sisters by adoption,

but does not include married brothers or married sisters unless dependent.

Section 59. "Parents" includes step-parents and parents by adoption.

Section 60. "Year" unless otherwise specified, means calendar year. "Fiscal year" means the period of time between the first day of July and the 30th day of the succeeding June.

Section 61. "Public Corporation" means the state or any county, municipal corporation, school district, city, city under commission form of government or special charter, town or village.

Section 62. "Week" means six working days, but includes Sunday, when Sunday is also a regular working day.

Section 63. "Wages" means the average daily wage received by the employee at the time of injury for the usual hours of employment in a day but does not include overtime. Provided, however, where any employee procures any work to be done, payment for which is to be made in property, other than money or its equivalent, and the value of which property is speculative or intangible, the wages of the employee receiving such compensation shall be determined by the board in accordance with the going wage for same or similar work in the same district or locality.

Section 64. The term "physician" shall include surgeon or other person authorized by law to practice his profession in this state.

Section 65. "The plant of the employer" shall include the place of business of a third person while the employer has access to, or control over such place of business for the purpose of carrying on his usual trade, business, or occupation.

Section 66. "Factories" means undertakings in which the business of working at commodities is carried on with machinery, whether in manufacture, repair, or change, and shall include the premises, wards, and plant of the concern.

Section 67. "Workshop" means any plant, yard, premises, room or place where machinery is employed and manual labor is exercised by way of trade or gain or otherwise in or incidental to the process of making, altering, repairing, printing or ornamenting, finishing or adapting for sale, or otherwise, any article, or part of article, machinery, or thing, over which premises, room or place the employer of the person working therein has the right of access or control.

Section 68. "Mill" means any plant, premises, room or place where machinery is used; any process of machinery in changing, altering, or repairing any article or commodity for sale, or otherwise, together with the yards and premises which are a part of the plant, including elevators, warehouses, and bunkers.

Section 69. "Mine" means any mine where coal, clay, ore, mineral, gypsum or rock is dug or mined underground.

Section 70. "Quarry" means an open cut from which coal is mined, or clay, ore, mineral, gypsum, sand, shale, gravel, or rock is cut or taken for manufacturing, building or construction purposes.

Section 71. "Engineering work" means any work of construction, improvement, or alteration or repair of buildings, streets, highways, sewers, street railways, railroads, logging roads, interurban roads, harbors, docks, canals; electric, steam or water power plant; telegraph and telephone plants and line; electric light and power lines, and includes any other work for the construction, alteration, or repair on which machinery or tools are used.

Section 72. "Reasonably safe place to work" means that the place of employment has been made as free from danger to the life, health, or safety of the employee as the nature of the employment will reasonably permit.

Section 73. "Reasonably safe tools and appliances" are such tools and appliances as are adapted to, and are reasonably safe for use for the particular purpose for which they are furnished, and shall embrace all standard safety devices and safeguards, as well as those provided or prescribed by the "safety provisions" of the act for the purpose of mitigating or preventing a specific danger.

Section 74. "Payroll," "annual payroll," or "annual payroll for the preceding year" means the average annual payroll of the employer for the preceding calendar year, or, if the employer shall not have operated a sufficient length of time during such calendar year, twelve times the average monthly payroll for the current year, provided that an estimate may be made by the board for any employer starting in business where no average payrolls are available.

Section 75. "Order" shall mean and include any rescission, rule, regulation, direction, requirement, or standard of the board or other determination arrived at or decision made by such board, excepting general orders as herein specified.

Section 76. "General order" shall mean and include such order made under the safety provisions of this act as applies generally throughout the state to all persons, employments or places of employment, or employees working in such places of employment as are included in this act.

Section 77. Wherever the singular is used the plural shall be included, and wherever the plural is used the singular shall be included. Wherever the masculine gender is used, the feminine and neuter shall be included.

#### **Compensation Provisions.**

Section 78. Every employer subject to this act shall contribute premiums to the industrial accident fund in proportion to the annual expenditure by such employer for the service of employees who are subject to the act, the amount of such premium payments and the method of making the same to be determined as hereinafter provided.

Section 79. Employers who comply with the provisions of the preceding section shall not be liable to respond in damages at common law or by statute for injury or death of any employee, wherever occurring, during the period covered by such premiums so paid into the industrial accident fund.

Section 80. Employers subject to this act, who shall fail to comply with the provisions of Section 78 hereof, shall not be entitled to the benefits of this act during the period of such non compliance but shall be liable to their employees for damages suffered by reason of injuries sustained in the course of employment, and also to the beneficiaries and dependents of such employees where death results from such injuries and in such action the defendant shall not avail himself or itself of the following common law defenses; (1) That the employee was negligent, unless such negligence was wilful; (2) That the injury was caused by the negligence of a fellow employee; (3) That the employee had assumed the risks inherent in, incident to, or arising out of his employment, or arising from the failure of the employer to provide and maintain a reasonably safe place to work, or reasonably safe tools, or appliances.



Section 81. Any employee whose employer is subject to this act and has failed to comply with the provisions of Section 78 hereof, who has been injured in the course of his employment, or his beneficiaries or dependents in case death has ensued, may in lieu of proceeding against his employer by civil action in the court, file his application with the Industrial Accident Board for compensation in accordance with the terms of this act, and the board shall hear and determine such application for compensation in like manner as in other claims before the board; and the amount of the compensation which said board may ascertain and determine to be due to such injured employee or his beneficiaries or dependents in case death has ensued, shall be paid by such employer to the person entitled thereto within ten days after receiving notice of the amount thereof as fixed and determined by the board; and in the event of the failure, neglect, or refusal of the employer to pay such compensation to the person entitled thereto within said period of ten days, the same shall constitute a liquidated claim for damages against such employer in the amount so ascertained and fixed by the board which, with an added penalty of fifty per cent, may be recovered in an action in the name of the state for the benefit of the person or persons entitled to the same.

Section 82. The provisions of Section 78 shall not apply to employers who are not engaged in hazardous employment as herein defined except as hereinafter specifically provided and the provisions of Section 80 shall not apply to actions to recover damages for personal injuries sustained by household and domestic servants, or those employed in farming, dairying, agricultural, viticultural and horticultural, stock or poultry raising, or engaged in the operation and maintenance of steam railroads conducting interstate commerce, or persons whose employment is of a casual nature, or persons engaged in an occupation or employment that the board has found to be non-hazardous and excluded from the act.

Section 83. Any employer carrying on any employment not classified as "hazardous," may elect to comply with the provisions of Section 78 of this act and pay into the industrial accident fund the premiums provided herein, in which event he shall not be liable to respond in damages at common law or by statute, for injury or death of any employee, during the period covered by such premiums and shall enjoy the benefit and privilege of Section 79 of this act. The employee of such employer shall be deemed to have elected to come under the provisions of the act unless such employee shall execute and file with the board, on a proper form to be furnished for that purpose, a specific election not to be so bound, in which event he shall not enjoy the benefit or privileges of the act until such election is withdrawn.

Section 84. Each employer and each employee subject to this act, except those enumerated in Section 82 hereof shall be deemed to have elected to come under its provisions unless such employer or employee shall execute and file with the board, on a proper form to be furnished for that purpose, a specific election not to be so bound. Neither an employer or an employee electing not to be bound by the provisions of the act shall enjoy its benefits or privileges until such election is withdrawn.

Section 85. If the injury to a workman occurring away from the plant of his employer is due to the negligence or wrong of another not in the same employ, the injured workman, or, if death results from such injury, beneficiaries or dependents, as the case may be, shall elect whether to take under this act or seek a remedy against such others; such election shall be made in advance of the

commencement of the action. If he take under this act, the cause of action against such other shall be assigned to the state for the benefit of the industrial accident fund. Any such cause of action assigned to the state may be prosecuted, or compromised by the board, in its discretion. If such workman, his beneficiaries, or dependents, as the case may be, shall elect to proceed against the person responsible for the injury, such election shall constitute a waiver of any right to compensation under the provisions of this act,

Section 86. Where any employer procures any work to be done, wholly or in part, for him by a contractor other than an independent contractor, and the work so procured to be done is a part or process in the trade or business of such employer, he shall be liable for the payment of compensation premiums under this act to the same extent as if the work were done without the intervention of such contractor, and the work so procured to be done shall not be construed to be "casual employment."

Section 87. Where any employer procures any work to be done, wholly or in part, for him by a contractor and the work so procured to be done is not a part or process in the trade or business of such employer, then such contractor shall become the employer for the purpose of this act.

Section 88. In computing compensation to children and to brothers and sisters, only those under eighteen years of age, or invalid children over the age of eighteen years shall be included, and in the case of invalid children, only during the period in which they are under that disability, all within the maximum limitations elsewhere in this act provided, after which payment on account of such person or persons shall cease. Compensation to children, or brothers or sisters, except invalids, shall cease when such persons reach the age of eighteen years and in all cases shall cease when such person marries.

Section 89. If any beneficiary or major or minor dependent of a deceased employee dies or marries, the right of such beneficiary or major or minor dependent to compensation under this act shall cease, except as provided in Section 118.

Section 90. If any person entitled to compensation under this act and whose compensation by the terms of Section 88 and 89 ceases upon his marriage, accepts any payment of compensation after his marriage, he shall be guilty of a misdemeanor.

Section 91. No compensation under this act, except as otherwise provided by treaty, shall be paid to any major or minor dependent not residing within the United States or in Canada at the time of the injury to the decedent.

Section 92. Except as otherwise provided by treaty, no compensation in excess of fifty per centum of the compensation provided in this act shall be payable to any beneficiary not residing within the United States or Canada at the time of the injury to the decedent.

Section 93. Nothing contained in the preceding section shall prevent the compromise of any sum or sums due a beneficiary not residing in the United States or Canada at the time of the injury to the decedent for a sum less than fifty per centum of the compensation provided in this act, upon the approval of the board of such compromise settlement.

Section 94. Before payment of compensation to a beneficiary not residing within the United States, satisfactory proof of such relationship as to constitute a beneficiary under this act shall be furnished by such beneficiary, duly authenticated, under seal of an officer

of a court of law in the country where such beneficiary resides at such times and in such manner as may be required by the board and such proof shall be conclusive as to the identity of such beneficiary and any other claim of any other person to any such compensation shall be barred from and after the filing of such proof.

Section 95. Payment of compensation to a beneficiary not residing within the United States may be made to any plenipotentiary or consul or consular agent within the United States representing the country in which such non-resident beneficiary resides, and the written receipt of such plenipotentiary or consul or consular agent shall acquit the industrial accident fund of further liability.

Section 96. Where payment is due to a child under eighteen years of age, or to a person adjudged incompetent, the same shall be made to the parent, or to the duly appointed guardian, as the case may be, and the written receipt of such parent or guardian shall acquit the industrial accident fund of further liability. In other cases, payment shall be made to the person entitled thereto or to his duly authorized representative.

Section 97. If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary or the major or minor dependent of the deceased, as the case may be, shall receive compensation the same as though death occurred immediately following the injury but the period during which the death benefit shall be paid shall be reduced by the period during or for which compensation was paid for the injury.

Section 98. If the employee shall die from some cause other than the injury, there shall be no liability for compensation after his death.

Section 99. The question as to who constitutes a beneficiary, or a major or minor dependent, shall be determined as of the date of the happening of the accident to the employee, or, in case of injury not due to or immediately following accident, to the time when such injury became manifest, whether death shall immediately result therefrom or not.

Section 100. No claim to recover compensation under this act, for injuries not resulting in death, shall be maintained unless, within sixty days after the occurrence of the accident or in the case of injury not due to or immediately following accident, within sixty days after the time when such injury became manifest, notice in writing stating the name and address of the person injured, the time and place where the injury occurred, and the nature of the injury, and signed by the person injured or someone in his behalf, shall be served upon the board; provided, however, that actual knowledge of such injury on the part of an employer or his managing agent, superintendent or superior servant in charge of the work upon which the injury is alleged to have occurred shall be equivalent to such service.

Section 101. In case of personal injury or death, all claims for compensation shall be forever barred unless presented in writing, under oath, to the board within six months from the date of the happening of the accident or in the case of injury not due to or immediately following accident within six months from the time when such injury became manifest, either by the claimant or someone legally authorized to act for him in his behalf, provided, however, that the board may, in its discretion and for good cause shown, extend the time for filing claim to twelve months from the date of happening of the accident or the date when the injury became manifest.

Section 102. No limitation of time as provided in the preceding section shall run as against any injured workman who is mentally

incompetent and without a guardian or an injured minor under eighteen years of age who may be without a parent or guardian. A guardian in either case may be appointed by any court of competent jurisdiction, in which event the period of limitation, as provided, in the preceding section, shall begin to run on the date of the appointment of such guardian, or when such minor arrives at the age of eighteen years.

Section 103. During the first twelve months after the happening of the injury, the industrial accident fund shall furnish reasonable medical, surgical and hospital service and medicines as and when needed, unless the employee shall refuse to allow them to be furnished.

Section 104. After the injury, the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a duly qualified physician designated or approved by the board. The employee may have a duly qualified physician, designated and paid by him, present to participate in such examination. For all examinations ordered by the board, the employee shall, in the discretion of the board, be paid for reasonable traveling and other necessary expenses incurred in order to submit to such examination. Payment for examination and expense shall be made from the industrial accident fund. If the employee refuses to submit himself for, or in any way obstructs any examination, his right to claim compensation under this act shall be suspended until such refusal or obstruction ceases. No compensation shall be payable while such refusal or obstruction continues and the period of such refusal or obstruction shall be deducted from the period during which compensation is payable to him. In case of any disagreement between the physician making an examination on the part of the board and the employee's physician, the board shall appoint an impartial physician, duly qualified, who shall make an examination and report. Any physician employed to make an examination or who shall be present at such examination may be required to testify as to the results thereof.

Section 105. Nothing in this act shall be construed as preventing employees from mutually or otherwise maintaining hospital contracts or hospital funds for medical, surgical, hospital, or other service not provided by this act but such hospital contracts or hospital funds shall be entirely apart from this act and in nowise under the jurisdiction of the board.

Section 106. Each and every hospital which furnishes treatment and service to employees for injury under the terms of this act shall be under the supervision of the board as to the services and treatment rendered such employees and shall from time to time make reports of such service, attendance, treatment and other information as the board may require.

Section 107. The industrial accident fund shall not be liable in any way for any act in connection with the treatment or care, or mal practice in treatment or care, of any injury sustained by an employee, where such act or treatment, or mal practice in treatment or care, was caused, or alleged to have been caused by any physician, hospital, or attendant, furnished by the board or paid from the industrial accident fund. In any action to recover damages for any act connected with the treatment or care, or mal practice in treatment or care, of any injury sustained by an employee, the question as to whether or not due care was given by the defendants shall be a question of law for the court. The merits of such action for mal practice shall, however, be investigated by the board and the findings of the board in relation thereto shall be filed

with the court in which such action is pending and shall be considered by the court in any determination or decision as a result of such action.

Section 108. No comparison shall be allowed or paid during the first seven days of disability resulting from any injury except as provided by Section 103 of this act, unless the period of disability shall be longer than seven days, in which event compensation shall be payable from the date of injury.

Section 109. There shall be paid, in addition to other compensation, if death due to injury occurs while the employee is drawing or entitled to draw compensation payment, the reasonable burial expenses of the employee, not exceeding two hundred (\$200.00) dollars.

Section 110. In addition to other benefits and payments herein provided, the industrial accident fund shall be liable for the payment of compensation to employees covered by this act at the time of injury or to their beneficiaries or dependents if death results from such injury, in accordance with the following schedule of classifications and benefits. If the disability caused by the injury is at times total and at other times partial, the compensation payments provided during such periods of total or partial disability shall be in accordance with the proper classification of disability hereinafter specified.

Section 111. For an injury producing temporary total disability, sixty-six and two-thirds per centum of the weekly wages received at the time of the injury, subject to a maximum compensation of twenty (\$20.00) dollars per week and a minimum compensation of eight (\$8.00) dollars per week. Such compensation shall be paid during the period of disability but for a period not exceeding three hundred (300) weeks from date of injury.

Section 112. For an injury producing total disability, permanent in character, sixty-six and two-thirds per centum of the weekly wages received at the time of injury, subject to a maximum compensation of twenty (\$20.00) dollars per week and a minimum compensation of eight (\$8.00) dollars per week. Such compensation shall be paid during the period of disability, not exceeding seventy-five hundred (\$7,500.00) dollars in amount.

Section 113. For an injury producing temporary partial disability, sixty-six and two-thirds per centum of the weekly loss in wages due to such disability during the period of disability but not exceeding fifty (50) weeks from date of injury.

Section 114. For an injury producing permanent partial disability, other than dismemberment, sixty-six and two-thirds per centum of the weekly loss in wages due to such disability, during the period of disability, but not exceeding one hundred (100) weeks from date of injury.

Section 115. For a permanent partial disability, other than dismemberment, which will occasion a decrease in earning power beyond the one hundred (100) weeks for which provision is made in the preceding section, the board may make or cause to be made a rating of percentage of disability, which rating shall take into account the age, education and mental capacity of the employee, and an adjustment of compensation either by monthly payments or for the purpose of a lump sum settlement may be made in accordance with such rating of percentage of disability on the basis that for one hundred per cent permanent disability the employee is entitled to the compensation provided for permanent total disability and that for any percentage less than one hundred per cent permanent disability, he shall be entitled to a pro rata proportion of such com-

pensation; provided, however, that no final settlement based on percentage of disability shall be made without a reasonable showing that such percentage of disability is not likely to decrease and that it has been sufficient to occasion an actual loss in earning power, and, provided, also, that in any settlement or adjustment on basis of percentage of disability, account shall be taken of the compensation previously paid or payable except compensation during the period while the wounds were healing.

Section 116. For dismemberment and in case of the following specified injuries, the compensation, other than that provided in Section 103 and other than the payment of compensation for temporary total disability during the period when the wound is healing, shall be sixty-six and two-thirds per centum of the wages received at the time of the injury, subject to a maximum compensation of twenty (\$20.00) dollars per week and a minimum compensation of eight (\$8.00) dollars per week. Such compensation shall be paid for the following periods:

For the loss, or total loss of use of:	
One arm, at or near shoulder.....	200 weeks
One arm at the elbow .....	180 weeks
One arm, between wrist and elbow.....	160 weeks
One hand .....	150 weeks
One thumb and the metacarpal bone thereof.....	60 weeks
One thumb, at the proximal joint.....	30 weeks
One thumb, at the second distal joint .....	20 weeks
One first finger and the metacarpal bone thereof.....	30 weeks
One first finger, at the proximal joint .....	20 weeks
One first finger, at the second joint .....	15 weeks
One first finger, at the distal joint .....	10 weeks
One second finger and metacarpal bone thereof.....	30 weeks
One second finger, at the proximal joint.....	15 weeks
One second finger, at the second joint .....	10 weeks
One second finger, at the distal joint .....	5 weeks
One third finger and metacarpal bone thereof.....	20 weeks
One third finger, at the proximal joint .....	12 weeks
One third finger, at the second joint .....	8 weeks
One third finger, at the distal joint .....	4 weeks
One fourth finger, at the second joint .....	6 weeks
One fourth finger and metacarpal bone thereof.....	12 weeks
One fourth finger, at the proximal joint .....	9 weeks
One fourth finger, at the distal joint .....	3 weeks
One leg, at or near the hip joint as to preclude the use of an artificial limb .....	200 weeks
One leg, at or above the knee where stump remains sufficient to permit the use of an artificial limb .....	150 weeks
One leg, between the knee and ankle.....	140 weeks
One foot, at the ankle .....	125 weeks
One great toe with the metatarsal bone thereof.....	30 weeks
One great toe, at the proximal joint .....	15 weeks
One great toe at the second joint .....	10 weeks
One toe, other than the great toe with the metatarsal bone thereof.....	12 weeks
One toe, other than the great toe, at proximal joint.....	6 weeks
One toe, other than the great toe, at second or distal joint.....	3 weeks
One eye, by enucleation .....	120 weeks
Total blindness of one eye.....	100 weeks
Total loss of hearing, one ear .....	20 weeks
Total loss of hearing, both ears.....	120 weeks

Payments shall be made for temporary total disability for the period during which the wound of dismemberment is healing and not longer than the time during which the employee is unable to work, after which payment of compensation for the specific injury shall begin. For percentage of loss of use of any member, or members, specified in this section, the compensation payment may be for the number of weeks which such percentage bears to the number of weeks payment for total loss of such member or members, exclusive of the period during which the wound is healing. In no case, however, shall the total period of compensation payments provided in this section exceed three hundred (300) weeks, unless the disability becomes total and permanent.

Section 117. The following permanent disabilities shall be conclusively presumed to be total in character: Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof; an injury resulting in practically total paralysis; an injury to the brain resulting in incurable imbecility or insanity. In all other cases, permanent total disability shall be determined in accordance with the facts.

Section 118. Where the injury causes death within five (5) years, compensation shall be payable to beneficiaries, if any there be; if no beneficiaries, to major dependents, if any there be; if neither beneficiaries nor major dependents, to minor dependents, if any there be; if there be neither beneficiaries, major dependents, nor minor dependents, then the board shall pay over from the industrial accident fund into the industrial administrative fund the sum of one thousand (\$1,000.00) dollars, less the amount of compensation that may have been previously paid to the employee. The payments to beneficiaries, major dependents, minor dependents, or the industrial administrative fund, to be in accordance with the following provisions and such other provisions as are elsewhere in this act provided.

(a) Beneficiaries, as hereinbefore defined, other than an invalid child over the age of eighteen years, shall be conclusively presumed to be dependent upon the deceased employee for support, and a surviving wife or surviving husband shall receive fifty per centum of the weekly wages received at the time of the injury. Such compensation shall be paid until death or remarriage of the surviving wife or husband. If the wife remarries, she shall be entitled to one hundred (100) weeks additional compensation paid in a lump sum. Each child, under the age of eighteen years, if any there be, inclusive of an invalid and wholly dependent child over the age of eighteen years, shall receive in addition to the compensation paid the surviving wife or husband, fifteen per centum of the wages received at the time of injury. Payment made on behalf of such child shall continue until it dies, reaches the age of eighteen years, or marries. Payment to an invalid child over the age of eighteen years, if wholly dependent, shall be on the same basis as that made to children under the age of eighteen years and shall continue during the disability of such child. If the invalid child over the age of eighteen years be not wholly dependent, payment shall be based upon the amount of actual dependency at the time of and immediately preceding the injury to the deceased employee, but in no event shall the total payments herein provided be over the maximum of twenty (\$20.00) dollars per week. If one or more beneficiaries die, compensation payment to the surviving beneficiaries shall thenceforth be adjusted on the same basis as though the deceased beneficiaries had never participated.

(b) If the beneficiaries consist only of orphan child or children, under the age of eighteen years, inclusive of an invalid and wholly dependent child over the age of eighteen years, each beneficiary shall be paid as compensation twenty per centum of the wages received by the employee at the time of his death. Compensation payment shall continue to each such beneficiary until it dies, reaches the age of eighteen years, or marries, and to each invalid child over the age of eighteen years during its period of disability but only in the amount of its dependency as provided in subdivision (a) of this section. If one or more beneficiaries die, compensation payment to the surviving beneficiaries shall henceforth be adjusted on the same basis as though the deceased beneficiaries had never participated,



but in no event shall the total payments herein provided be over twenty (\$20.00) dollars per week.

(c) If there be no beneficiaries, compensation shall be payable to major dependents based upon the amount of actual dependency. The question of dependency and the amount thereof shall be a question of fact to be determined by the board, and each major dependent shall be entitled to compensation in the amount of such actual dependency at or immediately prior to the injury to the deceased employee, provided, that the total payments to major dependents shall not exceed the maximum of twenty (\$20.00) dollars per week nor be less than the minimum of eight (\$8.00) dollars per week. Such payments shall continue during actual dependency and until the death or marriage of a major dependent but in no event exceed the amount provided in Section 119 of this act.

(d) If there be no beneficiaries, or major dependents, compensation shall be paid to minor dependents, based upon the amount of actual dependency. The question of dependency and the amount thereof shall be a question of fact to be determined by the board, and each minor dependent shall be entitled to compensation in the amount of such actual dependency at or immediately prior to the injury of the deceased employee, provided, that the total payments to minor dependents shall not exceed the maximum of twenty (\$20.00) dollars per week nor be less than the minimum of eight (\$8.00) dollars per week. Such payments shall continue to each minor dependent during actual dependency until it dies, reaches the age of eighteen years or marries, and to each invalid minor dependent over the age of eighteen years during the period of disability but in no event exceed the amount provided in Section 119 of this act.

(e) If there be neither beneficiaries, major dependents, nor minor dependents, then the board shall pay over from the industrial accident fund to the industrial administrative fund the sum of one thousand (\$1,000.00) dollars, less the amount of compensation that may have been previously paid to the employee. Such payment shall be made at or after six months from the date of death of an employee unless claims for compensation on the part of beneficiaries, major dependents, or minor dependents have been filed and are pending, in which event payment shall be made as soon as it is determined that no compensation is payable to such beneficiaries, major dependents, or minor dependents. Such payment shall be for the purpose of providing a fund for the maintenance and operation of the Industrial Accident Board, and for the purpose of industrial rehabilitation, and it is hereby declared to be the intent of this act to restore to industry those injured in the course of employment or otherwise. The board shall accordingly assist industrial and other cripples to obtain appropriate training, education, and employment and may co-operate with the federal board of vocational education for such purpose.

Section 119. Compensation, other than the medical and burial benefits provided, shall run consecutively and not concurrently and payment shall not be made for two classes of disability over the same period. The maximum payment of compensation following an injury, to any employee, his beneficiaries and dependents, shall not exceed seventy-five hundred (\$7,500.00) dollars, inclusive of cash discounts on lump sum settlements, but exclusive of medical and burial benefits hereinbefore provided, notwithstanding the provisions of other sections of this act.

Section 120. Compensation shall not be paid for any disability where such disability may reasonably be removed by proper operative, medical, or other treatment and the employee refuses to undergo

such treatment, unless it is established, by competent medical authority, that the proposed treatment cannot be undergone except at a greater than nominal hazard.

Section 121. If aggravation, diminution, or termination of disability takes place, or be discovered, within three years after the rate of compensation shall have been established, or compensation terminated in any case, where the maximum payments for disabilities as provided in this act have not been reached, such changes may be adjusted for future application of compensation in accordance with the provisions hereof, or, in a proper case, terminate the payments.

Section 122. All payments of compensation, as provided in this act, shall be made monthly, except as otherwise provided herein. No payments under this act shall be assignable, subject to attachment or garnishment, or held liable in any way for any debts.

Section 123. Whenever it is necessary to estimate the sum of money to set aside as a reserve in any case or to estimate the commuted value of a lump sum payment, the American Experience Table of Mortality shall be used.

Section 124. No agreement by an employee to waive any rights under this act for an injury to be received shall be valid.

Section 125. The monthly payments provided in this act may be converted, in whole or in part, into a lump sum payment, which lump sum payment shall not exceed the estimated value of the present worth of the deferred payments, capitalized at the rate of five per centum per annum simple interest. Such conversion shall only be made upon the written application of the injured workman, his beneficiaries, major dependents, or minor dependents, as the case may be, and shall rest in the discretion of the board both as to the amount of such lump sum payment and the advisability of such conversion. The board is hereby vested with full power, authority, and jurisdiction to compromise claims and to approve compromises of claims under this act.

Section 126. Every employer covered by this act is hereby required to file with the board, under such rules and regulations as the board may from time to time make, a full and complete report of every injury to an employee, or of death resulting from an injury. Such report shall be furnished to the board in such form and such detail as the board shall from time to time prescribe and shall make specific answer to all questions required by the board under its rules and regulations, except in case the employer is unable to answer any such questions, a good and sufficient reason shall be given for such failure. The report shall be made out and mailed or otherwise transmitted within ten days following the employer's knowledge of an injury to one of his employees, and failure, refusal, or neglect to make such report shall be a misdemeanor, punishable by a fine of three hundred (\$300.00) dollars.

Section 127. Where a workman is entitled to compensation under the provisions of this act, he shall file with the board his application therefor, together with the certificate of the physician who attended him, and it shall be the duty of such physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the board, without charge to the workman.

Section 128. Where death results from the injury, the parties entitled to compensation, or someone in their behalf, shall make application for the same to the board. The application must be accompanied by proof of death and proof of relationship, showing the

parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the rules of the board.

#### **Provisions for Industrial Accident Fund.**

Section 129. The board shall classify occupations and industries with respect to their degree of hazard and shall determine the risks of different classifications and shall fix the rate of premium for each of said classifications sufficiently high to provide for all payments from the fund created and maintained for such classification, inclusive of liability against the classification for unpaid compensation claims and of a provision for an adequate reserve.

Section 130. It shall be the purpose of the board, in the exercise of the powers and discretion conferred upon it, ultimately to fix and maintain, for each classification of occupation and industry, the lowest possible rate of premium consistent with the payments to be made from the fund created for such classification, the maintenance of solvency of such fund and the creation and maintenance of a reasonable reserve, and in order that such objects may be accomplished, the board shall keep an accurate account of the money paid in premiums by each of the several classifications of occupation and industry and the disbursements on account of injuries and deaths of employees thereof, and it shall also keep an account of the money received from each individual employer and the amount disbursed from the industrial accident fund on account of the injuries and deaths of the employees of such employer.

Section 131. The board may, in its discretion, establish a system of merit rating within any classification which will tend to an equitable treatment of individual employers therein.

Section 132. All collections from premium assessments on the several classifications established shall be paid into the industrial accident fund, and, during each calendar month, five per cent of the collections accruing to such fund during the preceding calendar month shall be transferred over to a reserve for such fund, to be known and maintained as the "industrial reserve fund" until such time as, in the judgment of the board, the surplus in the industrial reserve fund shall be sufficiently large to discharge all liability for payment of compensation claims theretofore filed and accepted by the board and to provide a surplus against catastrophe or calamity of any kind of not less than two hundred fifty thousand dollars (\$250,000.00) dollars. Thereafter, the board may decrease the percentage to be paid into the industrial reserve fund, or, if the condition of such fund warrants, suspend such payment.

Section 133. The classification of occupations and industries and the rates of premium assessments thereon fixed are to be advisory only and the board is hereby given full power and authority to rearrange, revise, add to, take from, change, modify, increase, or decrease, any classification and the amount of premium assessment thereon as, in its judgment or experience, may be necessary or expedient, provided, however, that no change in the classification or rates prescribed shall be made effective during a fiscal year. Not less than thirty days before the end of any fiscal year, the board shall go over each classification and the rate therefor previously established and make such adjustment of the classification or its premium rate as will tend to keep the fund for such classification in a solvent condition, as well as keep the rate as low as may be consistent for the maintenance of a proper and solvent fund. Such changes shall become effective on the first day of the succeeding fiscal year, except that in the case of new occupations and industries not there-

tofore classified, or rated, the board shall have the power to make an immediate classification thereof and establish a rate therefor

Section 134. If a single establishment, plant, or work, comprises several industries or occupations in different classifications, the premium assessment shall be computed according to the payroll of each classification, if clearly separable; otherwise, an average rate of premium assessment shall be charged for the entire establishment, plant, or work, or any part thereof, taking into consideration the number of employees and the relative hazards.

Section 135. It is the intent and purpose of this act that each occupation and industry covered by the act be liable and pay for all injuries happening to employees under such particular occupation or industry and that the industrial accident fund shall be made up of the various funds established for the several classifications of occupation and industry and that it shall include a proper reserve to be known as the "industrial reserve fund."

Section 136. Every employer, subject to the provisions of this act, shall, on or before June 15th, 1925, pay to the board premium assessment on four months estimated payroll, which premium assessment shall be determined and fixed by the board in accordance with the proper classification of occupations and industries for such employer. Any person who becomes an employer subsequent to June 15th, 1925, shall, fifteen days prior to the commencement of any work covered by this act, pay in like manner a premium based on four months estimated payroll. Such payments shall be deposited with the state treasurer to the credit of the industrial accident fund, but, on the records of the board, shall be kept in a separate account, to be known as "premium deposits" of the industrial accident fund. Payment of such premium deposits shall be accompanied or preceeded by an application for compensation coverage made by the employer on a blank form to be furnished by the board and a payroll or estimated payroll for four months showing the occupations and industries, the number of employees in each, and the salaries thereof, upon which payroll or estimated payroll, the board shall compute the amount of premium deposit. When proper application has been filed and the necessary four months premium deposit made, the board shall approve the application, and the date of such approval shall be the date of commencement of compensation coverage under this act.

Section 137. The premium deposit, provided in the preceding section, shall be held as a guarantee of the payment of premium assessments, and, upon the failure of any employer to make payment of a premium assessment at the time and in the manner hereinafter provided, the board shall credit his premium deposit, or so much thereof as necessary, to any unpaid premium assessment. If any employer shall suspend business or his compensation, coverage shall be cancelled for this or other cause, the premium deposit or so much thereof as has not been credited to premium assessments up to the time of such cancellation of coverage shall be returned to the employer.

Section 138. For every calendar month, each employer under the coverage of this act, shall furnish to the board a payroll showing, in such detail as the board may prescribe, the occupations and industries engaged in by his employees, the number of such employees in each occupation or industry, and the salaries paid for the calendar month. Such monthly payroll shall be submitted on a blank form furnished by the board and shall be mailed or otherwise transmitted to the board not later than the tenth day of the succeeding calendar month. Sixty days failure to furnish such payroll

shall result in the cancellation of compensation coverage and the forfeiture of all right to such part of the employer's premium deposit as is necessary to balance up his account for premium assessment, as such assessment may be estimated or otherwise determined by the board. After cancellation of compensation coverage and the forfeiture of a premium deposit, or any part thereof, the employer shall not again participate in the benefits of the act or enjoy its protection until he has made a new application for compensation coverage accompanied by a proper premium deposit.

Section 139. During each second calendar month, the board shall prepare and transmit to each employer a notice of premium assessment, based on his payrolls for the two preceding calendar months. The employer shall remit the amount of such premium assessment within ten days after notice thereof has been mailed or otherwise transmitted to him. Thirty days failure to make payment of premium assessment beyond the time herein specified shall result in cancellation of the employer's compensation coverage and forfeiture of his premium deposit, or so much thereof as necessary, by crediting it to his earned and unpaid premium assessments. Thereafter, such employer shall not again participate in the benefits of the act or enjoy its protection until he has made a new application for compensation coverage accompanied by a proper premium deposit.

Section 140. If the board shall at any time determine that the amount of premium deposit made by an employer is not sufficient to cover premium assessments on four months actual payroll, it shall call upon him by proper notice to make an additional premium deposit sufficient to bring his total premium deposit to the required amount. Thirty days failure to make payment of an additional premium deposit beyond the time when notice for such payment is given shall result in cancellation of the employer's compensation coverage and forfeiture of the premium deposit already made, or so much thereof as necessary, by crediting it to his earned and unpaid premium assessments. Thereafter, such employer shall not again participate in the benefits of the act or enjoy its protection until he has made a new application for compensation coverage accompanied by a proper and sufficient premium deposit.

Section 141. In any case where the total amount of premium deposit as required in the preceding sections is more than one hundred (\$100.00) dollars, the employer may, in lieu of making such premium deposit, file a surety bond in at least twice the amount of such deposit, such bond to be conditioned that the employer will, at the proper times and in the proper manner, pay the required premium assessments. Upon failure of the employer to make the payment of assessments as hereinbefore provided, compensation coverage shall be cancelled and the board shall collect the amount of earned and unpaid premium assessment, plus the cost of collection, from the surety company writing such bond.

Section 142. If, at any time, the amount of premium deposit or bond for premium payment, is insufficient to discharge all liability for earned and unpaid premium assessments, the balance due on such assessments may be collected by an action at law in the name of the state, and in the event of such collection by action at law, fifty per cent penalty shall be added. The board may sue any bond guaranteeing the payment of premium assessments, if such action be necessary.

Section 143. For each premium deposit made and for each premium assessment paid by an employer, the board shall issue a receipt showing the amount and purpose of payment. Prominently displayed on such receipt shall be a notation showing the time to which the employer's compensation coverage will run without ad-

ditional payment. Such receipt shall be posted or otherwise prominently displayed by the employer in or around his place of business in such manner as to constitute notice to his employees that he and they are under compensation coverage. Any employer who suspends work or for other reason makes application for a cancellation of compensation coverage, shall return to the board the last receipt issued on account of premium deposit or assessment payment with his application to withdraw premium deposit or any unearned portion thereof. If the employer shall fail to return such last receipt, no part of the premium deposit shall be repaid to him until the expiration of the time of compensation coverage as shown on such receipt, nor shall his compensation coverage actually be cancelled until such time.

Section 144. It shall be unlawful for any employer to deduct or obtain any part of any premium deposit or premium assessment required to be paid by this act from the wages or earnings of his employees, or any of them, and the making or attempt to make any such deduction shall be a misdemeanor punishable by a fine of three hundred (\$300.00) dollars.

Section 145. In case of bankruptcy, insolvency, liquidation, or the failure of an employer to meet any obligation imposed by this act, inclusive of a judgment secured under the provisions of the act, every liability which may be due shall be a lien upon all the property of such employer within this state and shall be pro-rated with other lienable claims and shall have preference over the claim of any creditor or creditors of such employer, except the claims of other lienors.

Section 146. Any employer who wilfully misrepresents to the board the amount of payroll upon which the premium under this act is based, inclusive of failure to report all his employees who are subject to the act, shall be liable to the state in ten times the amount of the difference between the premium paid and the amount the employer should have paid. The liability to the state under this section shall be enforced in a civil action in the name of the state, and all sums collected under this section shall be paid into the industrial accident fund.

Section 147. In computing the payroll, the entire compensation received by every workman employed, except those specifically excluded by the act, shall be included, whether it be in the form of salary, wages, piece work, overtime, or any allowance in the way of profit sharing premiums, or otherwise, and whether payable in money, board, or otherwise, provided, however, that premium assessments shall not be levied upon the salary or wages of any individual for any amount in excess of two hundred fifty (\$250.00) dollars in any calendar month. Any employer having an employee who earns more than two hundred fifty (\$250.00) dollars in any calendar month shall not be required to include the excess over such sum in the payroll submitted.

Section 148. The board shall invest such portion of the industrial accident fund, as may be advisable, in bonds of the United States, bonds or warrants of the state of Montana, or of any county, city, or school district therein, or any other securities which may be approved by said board. All earnings made by the industrial accident fund by reason of interest paid for the deposit thereof, by interest on investments, or otherwise, shall be credited to and become a part of said fund, and the making of profit, either directly or indirectly by the members of the board or any other person, out of the use of the industrial accident fund, shall constitute a felony, and on conviction thereof, shall subject the person making

not exceeding two (2) years or a fine not exceeding five thousand (\$5,000.00) dollars, or both such fine and imprisonment. The treasurer and members of the board shall be liable upon their official bonds for all profits realized from any unlawful use of the said fund.

Section 149. Disbursements out of the industrial accident fund shall be made by the treasurer of the board, as the board may order, and there is hereby appropriated out of the industrial accident fund such sums as may be necessary to pay the compensation provided for in this act.

Section 150. The money coming into the industrial accident fund shall be held in trust for the purpose for which such fund is created, and if this act shall be hereafter repealed, such money shall be subject to such disposition as may be provided by the legislature repealing this act. In default of such legislative action, distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing.

#### **Safety Provisions.**

Section 151. No employer shall construct, maintain, or operate, or cause to be constructed, maintained, or operated any place of employment that is not safe.

Section 152. No employee shall remove, displace, damage, destroy, or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for protection of any employee in such employment or place of employment, or fail or neglect to do anything reasonably necessary to protect the life, safety, and health of himself and other employees.

Section 153. The board is vested with full power and jurisdiction over and shall have such supervision of every employment and place of employment in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe and requiring the protection of the life, safety, and health of every employee in such employment or place of employment.

Section 154. The board shall have power, in addition to other powers herein granted, by general or special orders, rules or regulations, or otherwise;

1. To declare and prescribe safety devices, safeguards, and other means or methods of protection as are well adapted to render employees and places of employment safe.

2. To fix such reasonable standards and to prescribe, modify, and enforce such reasonable orders for the adoption, installation, use, maintenance, and operation of safety devices, safeguards, and other means and methods of protection, as may be necessary for the protection of the life, safety, and health of employees.

3. To fix and order such reasonable standards for the construction, repair and maintenance of places of employment as shall render them safe as regards to life and health.

4. To require the performance of any act necessary for the protection of life, safety, and health of employees.

Section 155. The board shall have the power to investigate any accident or injury and the causes thereof and to prescribe the general form of reports to be made thereon, inclusive of the information to be furnished in connection therewith and the time within which



such reports shall be filed. Nothing in this act shall be construed to prevent the board from requiring supplemental reports on accidents or injuries, provided, that where, by the laws of the state of Montana, the manner or method of carrying on any business, or the rules or regulations in relation thereto, or the character or kind of safety devices has been prescribed, it shall be the duty of the board to see that the employer lives up to and obeys said laws but the board may prescribe such additional rules, regulations, methods of operation, or safety devices as may be necessary for the further reasonable protection of the life, safety, and health of employees. A general order shall not be issued by the board except there be an appropriate hearing and the consideration of all available information.

Section 156. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing a general order or orders, the board shall cause a notice of such hearing to be published in one or more daily newspapers published and circulated in the state, and shall permit all parties in interest, in as far as these can be determined, an opportunity to be present at and submit testimony at such hearing. No defect or inaccuracy in such notice, or in the publication thereof, shall invalidate any general order issued by the board after a hearing has been had.

Section 157. After July 1st, 1925, every place of employment which the board may classify as extra hazardous, which classification shall apply to all factories, workshops, mines, mills, smelters, quarries, railroads subject to the provisions of this act, electric lines, power plants, engineering work, and for which inspection is not otherwise specifically provided by law, shall be inspected, at least once each year, by an inspector appointed by the board. Such inspection shall be for the purpose of determining the condition and operation of such places of employment, as regards the safety of employees working therein and the use of safe guards, safety appliances, and reasonably safe tools and appliances. A report of such inspection shall be filed in the office of the board and upon his demand, a copy thereof given the employer.

Section 158. Each place of employment inspected as provided in the preceding section and found in a satisfactory condition shall receive from the board, upon payment of the inspection fees, hereinafter provided, a certificate to that effect, which certificate shall be known as a "safety certificate" and must be displayed, under glass, in one of the prominent places on the work or premises so inspected.

Section 159. If, after such inspection and report thereof to the board, it shall be found that any such place of employment is not constructed, maintained or operated as provided in this act, the board shall order the installation, use, maintenance and operation, within such reasonable time as the board may direct, of such safety devices, safeguards, and other means and methods of protection as may be necessary to reasonably insure the safety of the workmen employed therein, subject to the provisions of the succeeding section.

Section 160. If, after such inspection, the board or any inspector thereof, shall find such place of employment in such an unsafe condition as to constitute an immediate menace to the safety of the workmen employed therein, the board may order any such place of employment closed, or the work therein to cease, until such safety devices, safe guards, and other means and methods, or changes or removals, as may be ordered by the board, or any inspector thereof, such profit to imprisonment in the state penitentiary for a term

shall have been installed, repaired, changed, or removed, and such place of employment put in such condition as will reasonably insure the safety of the workmen employed therein.

Section 161. For each annual inspection made under the provisions of Section 157, the employer shall pay, at the time of such inspection, a fee of ten (10c) cents for each one thousand (\$1,000.00) dollars or fraction thereof, of his annual payroll for the preceding year, provided, that no inspection fee shall be less than five (\$5.00) dollars.

1. For the first reinspection made in the same year and following an annual inspection, the employer shall pay, at the time of such inspection, a fee of five (5c) cents for each one thousand (\$1,000.00) dollars or fraction thereof of his annual payroll for the preceding year, provided, that no inspection fee for the first reinspection shall be less than five (\$5.00) dollars;

2. For the second reinspection made in the same year and following a first reinspection, the employer shall pay, at the time of such reinspection, a fee of three (3c) cents for each one thousand (\$1,000.00) dollars or fraction thereof of his annual payroll for the preceding year, provided, that no inspection fee for a second reinspection shall be less than five (\$5.00) dollars;

3. For each third reinspection made in the same year and following a second reinspection, the employer shall pay, at the time of such reinspection, a fee of two (2c) cents for each one thousand (\$1,000.00) dollars or fraction thereof of his annual payroll for the preceding year, provided, that no inspection fee for a third reinspection shall be less than five (\$5.00) dollars.

Not more than one (1) annual and three (3) reinspections shall be charged to any employer during the year and except in the case of mines having workings at a greater distance than one thousand (1,000) feet from the main entry or collar of the shaft, not more than one (1) reinspection shall be required except in case of calamity.

Section 162. All fees received by the board for inspection or reinspection and all fines imposed and collected for a violation of the safety provisions of this act shall be paid monthly to the state treasurer who shall credit such payments to the industrial administrative fund.

Section 163. The board may, upon application of any employer or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order any person affected by such order may petition the board for an extension of time, which the board shall grant if it finds such an extension of time necessary.

Section 164. Whenever the board shall learn, or have reason to believe, that any employment or place of employment is not safe or is injurious to the welfare of any employee, it may summarily investigate the same, with or without notice or hearing and enter and serve such order as may be necessary relative thereto.

Section 165. Every employer, employee, and other person shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the board, and shall do everything necessary or proper in order to secure compliance with an observance of every such order, decision, direction, rule or regulation. Violation of this section shall constitute a misdemeanor punishable by the courts as such.

Section 166. Every order of the board, general or special, its rules or regulations- findings or decisions, shall be admissible in evidence in any prosecution for, or suit to prevent, the violation of any of the provisions of this act and shall be presumed to be

reasonable. This presumption is, however, a rebuttal presumption.

Section 167. If, by reason of poor or careless management, or otherwise, any place of employment be unduly dangerous in comparison with other like places of employment and the employer operating the same shall not have complied with the safety provisions of this act, the board, in addition to any other penalty provided by the act, shall advance the premium assessment rate upon such place of employment fifty per centum, and such advanced rate shall continue and be in force until such place of employment shall have ceased to be unduly dangerous in comparison with other like places of employment and such employer shall have obtained a certificate of safety as provided herein.

#### Miscellaneous Provisions.

Section 168. This act shall not be extra-territorial and shall not apply to any employment or place of employment outside of the state of Montana, except that its provisions shall apply to Glacier National Park in so far as such provisions are not in conflict with federal law or federal authority.

Section 169. In as far as practicable, legal actions or suits arising from or growing out of the provisions of this act shall have precedence over all other civil actions and shall be assigned for trial as soon as the issues are made up.

Section 170. Any cause of action assigned to the state under the provisions of this act may be prosecuted or compromised by the board in its discretion.

Section 171. This act shall not affect any action pending, or any cause of action existing on the 30th day of June, 1925.

Section 172. Whoever makes, in any testimony submitted, affidavit required, or in any claim for compensation, or otherwise, under this act, any statement knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than two thousand (\$2,000.00) dollars, or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

Section 173. Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

Section 174. This act is intended to, and shall completely replace sections 2816 to 3033 inclusive Chapter 213 Revised Codes of Montana 1921, known as the Workmen's Compensation Act, as to all matters occurring and for which provision is made in this act on and after July 1st, 1925. All matters which have occurred prior to July 1st, 1925, shall continue to be handled under and subject to the provisions of said Chapter 213, provided, however, that the Industrial Accident Board, as constituted under the provisions of said Chapter 213, shall be empowered, after the passage of this act, to do any and all things necessary toward the proper inauguration of this act on the date specified and that after this act becomes fully effective, the Industrial Accident Board, as created in this act, shall be empowered to continue to carry out the provisions of said Chapter 213 as to any matter or thing occurring prior to the effective date of this act. The industrial accident fund and the industrial administrative fund, created under the provisions of said Chapter 213, shall, for all funds in excess of those required to discharge liabilities under the provisions of said Chapter 213, become the industrial accident fund and the industrial administrative fund provided in this act. All acts and parts of acts in conflict herewith are hereby repealed.

Section 175. This act, within the limitations provided in the preceding section, shall be in full force and effect from and after its passage.