

SUMMARY OF RATIONALE FOR PROPOSALS CONTAINED IN LC 5555

Section 6 – 39-71-116(4)&(31) - changes and corrects the definition of “Average Weekly Wage” to “State’s Average Weekly Wage”.

Sections 1, 2, 3, 4, 5, and 7 of LC5555 – changes and corrects “average weekly wage” to “state’s average weekly wage”. This change clarifies the “wage” is the “State’s Average Weekly Wage” not an individual’s average weekly wage.

Section 6 – 39-71-116(13) – provides a new definition of indemnity benefits – “indemnity” is used throughout the insurance industry and better describes wage loss than compensation.

“Compensation” has been interpreted by the Montana Supreme Court to mean more than just wage loss and includes medical and other benefits. Intended to clarify benefit provisions.

Sections 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 – changes “compensation” to indemnity, or to indemnity and medical, or to indemnity and other benefits, for the purpose of clarifying the benefit provisions.

Section 6 – 39-71-116(29) – deletes the definition of “Reasonably safe tools and appliances” – the words are not found in Chapter 71 or Chapter 72.

Section 11 – 39-71-401 – references the definition of “household and domestic employment” in 39-71-116.

Section 12 – 39-71-408 – Liability as first lien in case of bankruptcy or failure – simplified meaning by breaking into several sentences.

Section 37 – 39-71-2312 – Deletes the definition of “department” in Part 23 – Compensation Plan Number Three – the State Fund - Conflicts with the meaning of “department” (to mean Department of Labor & Industry) as defined in 39-71-116(11). “Department” as used in Part 23 means Labor & Industry and not Administration. When the meaning is the Department of Administration, it is referred to as the Department of Administration. This change is made with agreement of the State Fund.

Section 38 – Repealer:

Repeals 39-71-221 & 39-71-222 – These provisions are covered under Title 2 Government Structure and Administration, Chapter 6 Public Records.

Repeals 39-71-416 – Benefit reduction for third-part recovery – This section was determined to be unconstitutional – Supreme Court Case Colleen Connery v. Liberty Northwest, 1998 MT 125, and Article II, Section 16 of the Montana Constitution.

Repeals 39-71-426, 39-71-427, and 39-71-428 – Reciprocal agreements with Canadian provinces. Only the federal government may enter into international agreements.

TENTATIVE CONSENSUS: Repeals Part 8 – Compensation for Occupational Deafness – This part is outdated, confusing, and not practical to apply. It makes sense to treat hearing loss claims as an injury or an occupational disease and pay the same benefits.

Section 40 – Claims expenditure codes – for State Fund use only – direction to Code Commissioner to move to Part 23 – Compensation Plan Number Three.

Section 41 – Effective date – A July 1, 2005, effective date has historically been used in workers’ compensation legislation to establish that the changes apply to dates of injuries or OD’s contracted on or after the effective date and result in consistency with claims handling.