

HOUSE BILL 824

Introduced by Whalen

|      |   |
|------|---|
| 2/13 | Introduced                                  |
| 2/13 | Referred to Labor & Employment<br>Relations |
| 2/14 | First Reading                               |
| 2/14 | Fiscal Note Requested                       |
| 2/19 | Fiscal Note Received                        |
| 2/20 | Fiscal Note Printed                         |
| 3/05 | Hearing                                     |
| 3/22 | Tabled in Committee                         |

1 House BILL NO. 824  
 2 INTRODUCED BY Whalen  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE  
 5 EMPLOYER'S PAYROLL TAX BY 0.1 PERCENT TO FUND THE UNINSURED  
 6 EMPLOYERS' FUND; AMENDING SECTIONS 39-71-504, 39-71-2353,  
 7 39-71-2503, AND 39-71-2504, MCA; AND PROVIDING AN EFFECTIVE  
 8 DATE."  
 9

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

11 **Section 1.** Section 39-71-504, MCA, is amended to read:  
 12 "39-71-504. Funding of fund -- option for agreement  
 13 between department and injured employee. The fund shall be  
 14 funded in the following manner:

15 (1) The department shall require that the uninsured  
 16 employer pay to the fund a penalty of either double the  
 17 premium amount the employer would have paid on the payroll  
 18 of the employer's workers in this state if the employer had  
 19 been enrolled with compensation plan No. 3 or \$200,  
 20 whichever is greater. In determining the premium amount for  
 21 the calculation of the penalty under this subsection, the  
 22 department shall make an assessment on how much premium  
 23 would have been paid on the employer's past 3-year payroll  
 24 for periods within the 3 years when the employer was  
 25 uninsured. An assessment for payroll paid by the uninsured

1 employer for any time prior to July 1, 1977, may not be  
 2 made.

3 (2) (a) The fund shall receive from an uninsured  
 4 employer an amount equal to all benefits paid or to be paid  
 5 from the fund to an injured employee of the uninsured  
 6 employer. However, the uninsured employer's liability under  
 7 this subsection (2)(a) may not exceed \$50,000.

8 (b) The dollar limitation does not apply to an  
 9 uninsured employer's liability to an injured employee or the  
 10 employee's beneficiaries under 39-71-509 or 39-71-515.

11 (3) The department may determine that the \$1,000  
 12 assessments that are charged against an insurer in each case  
 13 of an industrial death under 39-71-902(1) shall be paid to  
 14 the uninsured employers' fund rather than the subsequent  
 15 injury fund.

16 (4) The department may enter into an agreement with the  
 17 injured employee or the employee's beneficiaries to assign  
 18 to the employee or the beneficiaries all or part of the  
 19 funds received by the department from the uninsured employer  
 20 pursuant to subsection (2)(a).

21 (5) The department of revenue shall deposit 0.1% of the  
 22 employer's payroll tax provided for in 39-71-2503 in the  
 23 fund."

24 **Section 2.** Section 39-71-2503, MCA, is amended to read:  
 25 "39-71-2503. Workers' compensation payroll tax. (1) (a)

1 There is imposed on each employer a workers' compensation  
 2 payroll tax in an amount equal to ~~0.28%~~ 0.38% of the  
 3 employer's payroll in the preceding calendar quarter for all  
 4 employments covered under 39-71-401, except that if an  
 5 employer is subject to 15-30-204(2), the tax is an amount  
 6 equal to ~~0.28%~~ 0.38% of the employer's payroll in the  
 7 preceding week. Phis Except as provided in 39-71-504, this  
 8 payroll tax must be used to reduce the unfunded liability in  
 9 the state fund incurred for claims for injuries resulting  
 10 from accidents that occurred before July 1, 1990. The  
 11 department must report past and projected future tax  
 12 proceeds to the legislature, which shall consider the report  
 13 and determine the tax rate necessary for repayment of loans  
 14 with interest.

15 (b) Each employer shall maintain the records the  
 16 department requires concerning the employer's payroll. The  
 17 records are subject to inspection by the department and its  
 18 employees and agents during regular business hours.

19 (2) Att Except as provided in 39-71-504, all  
 20 collections of the tax are appropriated to and must be  
 21 deposited as received in the tax account. The tax is in  
 22 addition to any other tax or fee assessed against employers  
 23 subject to the tax.

24 (3) (a) On or before the 20th day of May, August,  
 25 November, and February, each employer subject to the tax

1 shall file a return in the form and containing the  
 2 information required by the department and, except as  
 3 provided in subsection (3)(b), pay the amount of tax  
 4 required by this section to be paid on the employer's  
 5 payroll for the preceding calendar quarter.

6 (b) An employer subject to 15-30-204(2) shall remit to  
 7 the department a weekly payment with its weekly withholding  
 8 tax payment in the amount required by subsection (1)(a).

9 (c) A tax payment required by subsection (1)(a) must be  
 10 made with the return filed pursuant to 15-30-204. The Except  
 11 as provided in 39-71-504, the department shall first credit  
 12 a payment to the liability under 15-30-202 and credit any  
 13 remainder to the workers' compensation tax account provided  
 14 in 39-71-2504.

15 (4) An employer's officer or employee with the duty to  
 16 collect, account for, and pay to the department the amounts  
 17 due under this section who willfully fails to pay an amount  
 18 is liable to the state for the unpaid amount and any penalty  
 19 and interest relating to that amount.

20 (5) Returns and remittances under subsection (3) and  
 21 any information obtained by the department during an audit  
 22 are subject to the provisions of 15-30-303, but the  
 23 department may disclose the information to the department of  
 24 labor and industry under circumstances and conditions that  
 25 ensure the continued confidentiality of the information.

1 (6) The department of labor and industry and the state  
 2 fund shall, on July 1, 1991, or as soon after that date as  
 3 possible, give the department a list of all employers having  
 4 coverage under any plan administered or regulated by the  
 5 department of labor and industry and the state fund. After  
 6 the lists have been given to the department, the department  
 7 of labor and industry and the state fund shall update the  
 8 lists weekly. The department of labor and industry and the  
 9 state fund shall provide the department with access to their  
 10 computer data bases and paper files and records for the  
 11 purpose of the department's administration of the tax  
 12 imposed by this section.

13 (7) The provisions of Title 15, chapter 30, not in  
 14 conflict with the provisions of this part regarding  
 15 administration, remedies, enforcement, collections,  
 16 hearings, interest, deficiency assessments, credits for  
 17 overpayment, statute of limitations, penalties, and  
 18 department rulemaking authority apply to the tax, to  
 19 employers, and to the department."

20 **Section 3.** Section 39-71-2504, MCA, is amended to read:

21 "39-71-2504. Workers' compensation tax account. (1)  
 22 There is a workers' compensation tax account in the state  
 23 special revenue fund. The workers' compensation tax account  
 24 consists of a tax account and a workers' compensation loan  
 25 repayment account.

1 (2) ~~All~~ Except as provided in 39-71-504, all  
 2 collections of the tax, interest and penalties on the tax,  
 3 and revenue appropriated to the workers' compensation tax  
 4 account under section 11, Chapter 9, Special Laws of June  
 5 1989, must be deposited in the workers' compensation tax  
 6 account. All such money deposited in the workers'  
 7 compensation tax account must be credited to the workers'  
 8 compensation loan repayment account to the extent necessary  
 9 to pay the principal of and interest due on workers'  
 10 compensation loans issued under 39-71-2353. The balance in  
 11 the workers' compensation loan repayment account must be  
 12 credited to the tax account within the workers' compensation  
 13 tax account and is statutorily appropriated, as provided in  
 14 17-7-502, to the state fund to be used to reduce the  
 15 unfunded liability in the state fund incurred for claims for  
 16 injuries resulting from accidents that occurred before July  
 17 1, 1990."

18 **Section 4.** Section 39-71-2353, MCA, is amended to read:

19 "39-71-2353. Use of payroll tax proceeds -- loans.  
 20 ~~Taxes~~ Except as provided in 39-71-504, taxes collected under  
 21 39-71-2503 may be used only to administer and pay claims for  
 22 injuries resulting from accidents that occurred before July  
 23 1, 1990, including the cost of repaying loans given under  
 24 this section. If the state fund determines that, for the  
 25 next 1 or more years following the date of the

LC 1330/01

1 determination, the tax revenue, together with other funds in  
2 the account required by 39-71-2321 for claims for injuries  
3 resulting from accidents that occurred before July 1, 1990,  
4 will be insufficient to administer and pay those claims, the  
5 state fund, through its board of directors, may advise the  
6 board of investments that additional funding is necessary.  
7 The board of investments may loan, from reserves accumulated  
8 from premiums paid to the state fund based upon wages  
9 payable on or after July 1, 1990, amounts necessary for  
10 payment of claims for injuries resulting from accidents that  
11 occurred before July 1, 1990. The loans must bear interest  
12 at 7 1/2%."

13 NEW SECTION. **Section 5.** **Effective date.** [This act] is  
14 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0824, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to increase the employer's payroll tax by 0.1 percent to fund the uninsured employers' fund.

ASSUMPTIONS:

1. Total gross payroll subject to the workers' compensation payroll tax is estimated at \$4,226,667,000 for FY91. Growth in total nonfarm wage and salary income under HJR0024 is 4.8% and 4.5% in FY92 and FY93, respectively. Applying these growth assumptions to gross payroll subject to the workers' compensation payroll tax projects \$4,471,467,000 and \$4,672,683,000 for FY92 and FY93, respectively.
2. All of the increase in tax collections due to the increase in the rate would be deposited to the uninsured employer's fund (UEF).
3. The Department of Revenue would first credit a payment to the liability of an employer pursuant to 15-30-202, MCA (income tax withholding), then credit the remainder to the workers' compensation payroll tax account, and then split collections between the UEF and the unfunded liability fund. Under this assumption, no modification of the current withholding system would be required.
4. Total salaries paid to state employees under the executive budget, including the pay plan, are estimated at approximately \$382 million and \$395 million in FY92 and FY93, respectively. Funding for state wage and salaries is based on fund allocations derived for purposes of calculating the pay plan. (50.8% general fund, 49.2% other funds)


FISCAL IMPACT:

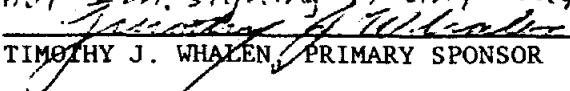
|                         | FY 92       |              |            | FY 93       |              |            |
|-------------------------|-------------|--------------|------------|-------------|--------------|------------|
|                         | Current Law | Proposed Law | Difference | Current Law | Proposed Law | Difference |
| <u>Expenditures:</u>    |             |              |            |             |              |            |
| Salaries and Wages      | 382,299,594 | 382,681,894  | 382,300    | 395,006,261 | 395,401,267  | 395,006    |
| <u>Funding:</u>         |             |              |            |             |              |            |
| General Fund            | 194,208,194 | 194,402,402  | 194,208    | 200,268,174 | 200,468,442  | 200,268    |
| Other Funding           | 188,091,400 | 188,279,492  | 188,092    | 194,738,087 | 194,932,825  | 194,738    |
| Total                   | 382,299,594 | 382,681,894  | 382,300    | 395,006,261 | 395,401,267  | 395,006    |
| <u>Revenues:</u>        |             |              |            |             |              |            |
| Wrks Comp Pay. Tax (02) | 12,520,108  | 16,991,575   | 4,471,467  | 13,083,512  | 17,756,195   | 4,672,683  |

Impact to General Fund

(194,208) (200,268)

*This fiscal note doesn't make sense: not Fin. signing it any way.*

  
ROD SUNDSTED, BUDGET DIRECTOR      7-19-91      DATE  
 Office of Budget and Program Planning

  
TIMOTHY J. WHALEN, PRIMARY SPONSOR      7-20-91      DATE

Fiscal Note for HB0824, as introduced

**HB 824**

Fiscal Note Request, HB0824, as introduced.

Form BD-15

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

All government entities would incur increased expenditures due to the increase in the payroll tax rate.

TECHNICAL NOTES:

1. A literal interpretation of Section (5) of 39-71-504, MCA, as amended by HB0824, would deposit only \$16,992 and \$17,756 to the UEF (i.e. 0.001 of total worker's comp. payroll tax proceeds deposited to the UEF). This fiscal note interprets that the bill sponsor intends to have the whole amount of the increase deposited to the UEF.
2. Assumption #3 permits the Department of Revenue to implement HB0824 without an increase in administrative costs. Should the language be interpreted differently, substantial administrative expenditure would be incurred to modify the current withholding system.

HB 824