HOUSE BILL NO. 884

INTRODUCED BY C. SMITH, DARKO, B. WILLIAMS, THAYER, CONNELLY, JONES, MCCALLUM, DRISCOLL, STANG, COHEN, SQUIRES, RAPP-SVRCEK, HANSEN, REAM, POULSEN, PETERSON, BLAYLOCK, VAN VALKENBURG, HARRINGTON, QUILICI, MCCORMICK, HARP

IN THE HOUSE

MARCH 14, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
MARCH 28, 1987	ON MOTION, REREFERRED TO COMMITTEE ON APPROPRIATIONS.
MARCH 30, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 31, 1987	PRINTING REPORT.
APRIL 1, 1987	SECOND READING, DO PASS AS AMENDED.
	ON MOTION, RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, PASSED. AYES, 70; NOES, 25.
	TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 3, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
APRIL 10, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 14, 1987	SECOND READING, CONCURRED IN AS AMENDED.
	ON MOTION, RULES SUSPENDED TO PLACE BILL ON THIRD READING THE 83RD LEGISLATIVE DAY.

APRIL 14, 1987	THIRD READING, CONCURRED IN. AYES, 27; NOES, 23.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 16, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 17, 1987	THIRD READING, AMENDMENTS NOT CONCURRED IN.
	ON MOTION, RECONSIDER ACTION ON THIRD READING.
	THIRD READING, AMENDMENTS NOT CONCURRED IN.
APRIL 20, 1987	ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1987	ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
APRIL 23, 1987	ON MOTION, CONFERENCE COMMITTEE DISSOLVED.
	ON MOTION, CONFERENCE COMMITTEE NO. 2 REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1987	ON MOTION, TAKEN FROM THIRD READING AND PLACED ON SECOND READING THIS DAY.
	SECOND READING, AMENDMENTS CONCURRED IN.
	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

House BILL NO. 884

INTRODUCED BY C. Smith, Darko, B. Williams, Connelly, HARP, Harrington, Blaylock, Cohen

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A SUPPLEMENTAL FUNDING SOURCE FOR THE WORKERS' COMPENSATION STATE FUND THROUGH AN EMPLOYER'S PAYROLL TAX; TO PROVIDE FOR THE SALE OF BONDS TO FINANCE THE UNFUNDED LIABILITY OF THE STATE FUND; TO PROVIDE THAT THE EMPLOYER'S PAYROLL TAX IS SECURITY FOR PAYMENT OF THE BONDS; TO STATUTORILY APPROPRIATE THE PAYROLL TAX TO PAY PRINCIPAL, PREMIUM, AND INTEREST ON THE BONDS; REPEALING SECTION 39-71-2326, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of examiners created in 2-15-1007.

(2) "Bonds" means the bonds or notes issued pursuant to [section 5].

(3) "Debt service account" means the account created in the debt service fund by [section 4].

(4) "Department" means the department of labor and industry provided for in 2-15-1701.

(5) "Employer" has the meaning set forth in 39-71-117.

(6) "Payroll" means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for all employments covered under 39-71-401.

(7) "State fund" means the state compensation insurance fund referred to in 39-71-2301.

(8) "Tax" means the workers' compensation payroll tax provided for in [section 3].

(9) "Tax account" means the workers' compensation tax account created by [section 4].

Section 2. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund and is projected to increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to provide a source of funding for the unfunded liability in addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers'

INTRODUCED BILL
HB-884

compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of [this act] is to provide a supplemental source of financing for the unfunded liability and to provide a general reduction in rates for employers insured under the state fund.

Section 3. Workers' compensation payroll tax -- penalty. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to 0.57% of the employer's payroll in the preceding calendar quarter for all employments covered under 39-71-401. An amount equal to 0.5% of the payroll tax is intended to pay the principal of and premium and interest on the bonds issued pursuant to [section 5]. An amount equal to 0.07% of the payroll tax is intended to provide a general reduction in rates for employers insured under the state fund.

(b) The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.

(c) The tax must be paid to and collected by the department. The department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.

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

(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122 regarding deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department.

Section 4. Workers' compensation tax account -- debt service account. (1) There is an account in the state special revenue fund. All collections of the tax and interest and penalties on the tax must be deposited in the account and are statutorily appropriated, as provided in 17-7-502, to pay the principal, premium, and interest on bonds issued pursuant to [section 5].

(2) There is a debt service account in the debt service fund to be maintained in the fund so long as any bonds remain unpaid. Money in the account created in subsection (1) must be credited to the debt service account immediately after each quarterly collection in an amount equal to:

(a) one-quarter of the principal of the bonds due in the succeeding 12 months; and

(b) one-half of the premium and interest due on the bonds in the next succeeding 6 months.

(3) After each quarterly credit to the debt service account in the debt service fund, the remaining amount in the account created in subsection (1) in excess of the annual principal and interest due on the bonds in the next succeeding fiscal year must be deposited in and credited to the state fund.

(4) The money in the tax account is pledged to pay the principal of and premium and interest on the bonds.

Section 5. Bonds -- tax as security for bonds. (1) The board is authorized to issue and sell up to $80 million

principal amount of bonds to finance the unfunded liability in the state fund on receipt of a request from the administrator of the division of workers' compensation setting forth the estimated unfunded liability in the state fund and the amount of bonds requested to be issued.

(2) The board may not issue any bonds unless it finds in the resolution for the bonds that the estimated annual collections from the tax in each calendar year after 1987 will be at least 1.3 times the maximum annual principal and interest due in any future calendar year on all the bonds then outstanding and to be issued.

(3) The legislature shall provide for the continued assessment, levy, collection, and deposit into the tax fund of the tax in amounts sufficient to pay, when due, the annual debt service charges on all outstanding bonds. This requirement may not be modified so as to reduce the security for any bonds while the bonds are outstanding.

(4) The proceeds of the bonds must be deposited in the state fund, except that any premiums and accrued interest received and proceeds required to pay interest prior to the receipt of tax collection must be deposited in the debt service account in the debt service fund, and all amounts required to pay the costs of issuance of the bonds must be credited to an account for that purpose.

Section 6. Issuance of bonds. (1) Each series of bonds must be issued:

(a) by the board at public or private sale;

(b) in denominations and form, whether payable to bearer or registered as to principal or both principal and interest;

(c) with provision for conversion or exchange;

(d) bearing interest at such rate or rates;

(e) to mature at times not exceeding 30 years from the date of issue, subject to redemption at earlier times and prices and on notice; and

(f) payable at the office of the state fiscal agency that the board determines.

(2) The board may prescribe the form and terms of the bonds in all other respects and shall do whatever is lawful and necessary for their issuance and payment.

(3) (a) The bonds and any coupons attached to them must be signed by the members of the board and issued under the state seal.

(b) The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law.

(4) The state treasurer shall keep a record of all bonds issued and sold.

(5) The board may employ a fiscal agent to assist in the performance of its duties under [this act].

Section 7. Protecting rights of bondholders. (1) The resolution pursuant to which the bonds are issued may contain provisions providing for:

(a) the protection and enforcement of the rights and remedies of bondholders as are reasonable, proper, and lawful. The provisions may be those customary in resolutions or indentures securing state bonds or debentures.

(b) the custody, safeguarding, and application of all money.

(2) Any bondholder or party in interest subject to the applicable resolution may sue to enforce the performance of the bond provisions of [this act].

Section 8. Refunding obligations -- bond anticipation notes. (1) (a) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that were issued under [this act]. This includes the payment of any redemption premium and interest accrued or to accrue on the date of redemption of the obligations.

(b) The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of obligations.

(c) Refunding obligations issued under subsection (1) may be sold or exchanged for outstanding obligations issued under [this act]. The proceeds may be applied to the purchase, redemption, or payment of interest on refunding obligations and expenses related to refunding.

(d) Pending the application of the proceeds of refunding obligations to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and if permitted in the resolution authorizing the issuance of the refunding obligations securing them, the proceeds may be invested as provided in Title 17, chapter 6.

(2) The board may issue bond anticipation notes in anticipation of the issuance of bonds pursuant to the applicable terms and provisions of 17-5-805.

Section 9. Liability of board members and state employees. The members of the board and officers and employees of the department and any other state agency are not personally liable or accountable by reason of the issuance of any bond or on any bond.

Section 10. Repealer. Section 39-71-2326, MCA, is repealed.

Section 11. Extension of authority. Any existing authority of the department of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 12. Effective date. This act is effective on

passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB884, third reading copy.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a supplemental funding source for the Workers' Compensation State Fund through an employer's payroll tax; to statutorily appropriate the payroll tax to the unfunded liability of the State Fund.

ASSUMPTIONS:

1. All employers must be given an advance 30-day notice of the payroll tax requirements.
2. Plan III employers will report payroll and be billed through the present computer system.
3. Computer system changes will be required to implement this bill. These changes will allow the present system to receipt payroll and bill and receipt the payroll tax for employers covered under all three plans.
4. There are approximately 8,700 employers covered under Plans I and II.
5. Whenever a new employer is enrolled under Plan I or Plan II, they must be notified of the payroll tax requirements. Any new employer enrolled under Plan III would receive notification of the requirements in the new employer packet.
6. Any costs to implement the payroll tax would be paid from proceeds of the tax.
7. Ten percent of all employers will be delinquent in paying the tax and will be subject to the interest and penalty provisions.
8. Two and a half percent of all employers will be referred to the Department of Revenue for collection of the tax.
9. Half of all Plan I and II employers will correctly compute the amount of tax due and remit the tax with the payroll reporting form.
10. Annual projected covered payroll is $4,035,758,352 in FY88 and $4,076,115,936 in FY89 as estimated by the Department of Labor and Industry.
11. $15,000 to change computer programs in the State Auditor's Office.

FISCAL IMPACT:	FY88	FY89
Expenditures:		
FTE	1.00	1.00
Personal Services	$ 15,571	$ 15,511
Operating Expenses		
Workers' Compensation	82,791	27,719
State Auditor	15,000	0
TOTAL	$113,362	$ 43,230

David L. Hunter DATE 4/6/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Clyde Smith DATE

CLYDE SMITH, PRIMARY SPONSOR

Fiscal Note for HB884, third reading copy.

FISCAL IMPACT (continued):
Source of Funding:
State Special Revenue Fund

	FY88	FY89
Revenues:		
$4,035,758,352 x .2%	$ 8,071,517	
$4,076,115,936 x .2%		$ 8,152,232

Cost to state government per year:

Payroll Tax	General Fund	Other Funds
$ 693,000	$ 471,000	$ 222,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
The payroll tax would be assessed against all local agencies required to have workers' compensation coverage.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
None. Proposed legislation terminates the payroll tax on June 30, 1989.

CONFLICTS WITH OTHER LEGISLATION:
The costs to state government are not included in the appropriations contained in HB002. If the legislation passes, HB002 will have to be amended to include the costs in agency budgets.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB884, reference copy.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a supplemental funding source for the Workers' Compensation State Fund through an employer's payroll tax; to statutorily appropriate the payroll tax to the unfunded liability of the State Fund.

ASSUMPTIONS:

1. All employers must be given an advance 30-day notice of the payroll tax requirements.
2. Plan III employers will report payroll and be billed through the present computer system.
3. Computer system changes will be required to implement this bill. These changes will allow the present system to receipt payroll and bill and receipt the payroll tax for employers covered under all three plans.
4. There are approximately 8,700 employers covered under Plans I and II.
5. Whenever a new employer is enrolled under Plan I or Plan II, they must be notified of the payroll tax requirements. Any new employer enrolled under Plan III would receive notification of the requirements in the new employer packet.
6. Any costs to implement the payroll tax would be paid from proceeds of the tax.
7. Ten percent of all employers will be delinquent in paying the tax and will be subject to the interest and penalty provisions.
8. Two and a half percent of all employers will be referred to the Department of Revenue for collection of the tax.
9. Half of all Plan I and II employers will correctly compute the amount of tax due and remit the tax with the payroll reporting form.
10. Annual projected covered payroll is $4,035,758,352 in FY88 and $4,076,115,936 in FY89 as estimated by the Department of Labor and Industry.
11. $15,000 to change computer programs in the State Auditor's Office.

FISCAL IMPACT:	FY88	FY89
Expenditures:		
FTE	1.00	1.00
Personal Services	$ 15,571	$ 15,511
Operating Expenses		
Workers' Compensation	82,791	27,719
State Auditor	15,000	0
TOTAL	$113,362	$ 43,230

David L Hunter DATE 4/16/87

DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

Clyde Smith DATE

CLYDE SMITH, PRIMARY SPONSOR

Fiscal Note for HB884, reference copy.

HB 884 #2

FISCAL IMPACT (continued):
Source of Funding:
State Special Revenue Fund

Revenues:	FY88	FY89
$4,035,758,352 x .3%	$12,107,275	
$4,076,115,936 x .3%		$12,228,348

Cost to state government per year:

Payroll Tax	General Fund	Other Funds
$1,039,500	$ 706,500	$ 333,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
The payroll tax would be assessed against all local agencies required to have workers' compensation coverage.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
The bill terminates June 30, 1991. Revenues would increase by about $12.2 million a year in the next biennium. The cost to state government would increase about $1,040,000 (general fund - $707,000, other funds $333,000) a year in the next biennium.

CONFLICTS WITH OTHER LEGISLATION:
The costs to state government are not included in the appropriations contained in HB002. If the legislation passes, HB002 will have to be amended to include the costs in agency budgets.

HB 884
#2

RE-REFFERED AND

APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

HOUSE BILL NO. 884

INTRODUCED BY C. SMITH, DARKO, B. WILLIAMS, THAYER, CONNELLY, JONES, MCCALLUM, DRISCOLL, STANG, COHEN, SQUIRES, RAPP-SVRCEK, HANSEN, REAM, POULSEN, PETERSON, BLAYLOCK, VAN VALKENBURG, HARRINGTON, QUILICI, MCCORMICK, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A SUPPLEMENTAL FUNDING SOURCE FOR THE WORKERS' COMPENSATION STATE FUND THROUGH AN EMPLOYER'S PAYROLL TAX; TO PROVIDE FOR THE SALE OF BONDS TO FINANCE THE UNFUNDED LIABILITY OF THE STATE FUND; TO PROVIDE THAT THE EMPLOYER'S PAYROLL TAX IS SECURITY FOR PAYMENT OF THE BONDS; TO STATUTORILY APPROPRIATE THE PAYROLL TAX TO PAY PRINCIPAL, PREMIUM, AND INTEREST ON THE BONDS <u>AND THE UNFUNDED LIABILITY OF THE STATE FUND; AMENDING SECTION 17-7-502, MCA;</u> REPEALING SECTION 39-71-2326, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

<u>NEW SECTION.</u> Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of examiners created in 2-15-1007.

(2) "Bonds" means the bonds or notes issued pursuant to [section 5].

(3) "Debt service account" means the account created in the debt service fund by [section 4].

(4) "Department" means the department of labor and industry provided for in 2-15-1701.

(5) "Employer" has the meaning set forth in 39-71-117.

(6) "Payroll" means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for all employments covered under 39-71-401.

(7) "State fund" means the state compensation insurance fund referred to in 39-71-2301.

(8) "Tax" means the workers' compensation payroll tax provided for in [section 3].

(9) "Tax account" means the workers' compensation tax account created by [section 4].

<u>NEW SECTION.</u> Section 2. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund and is projected to increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to provide a source of funding for the unfunded liability in

SECOND READING

addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of [this act] is to provide a supplemental source of financing for the unfunded liability ~~and-to-provide-a-general-reduction-in--rates--for--employers insured-under-the-state-fund~~.

<u>NEW SECTION.</u> Section 3. Workers' compensation payroll tax -- penalty. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.57%~~ <u>0.5%</u> of the employer's payroll in the preceding calendar quarter for all employments covered under

39-71-401. ~~An--amount-equal-to-0.5%-of-the~~ <u>THIS</u> payroll tax ~~is-intended-to~~ <u>MUST</u> pay the principal of and premium and interest on the bonds issued pursuant to [section 5] <u>AND BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987</u>. ~~An--amount--equal-to-0.07%-of-the-payroll-tax-is-intended-to provide-a-general-reduction-in-rates-for--employers--insured under-the-state-fund.~~

(b) The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.

(c) The tax must be paid to and collected by the department. The department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.

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

(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is in addition to any other tax or fee assessed against employers subject to the tax.

(3) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122 regarding deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department.

NEW SECTION. Section 4. Workers' compensation tax account -- debt service account. (1) There is an account in the state special revenue fund. All collections of the tax and interest and penalties on the tax must be deposited in the account and are statutorily appropriated, as provided in 17-7-502, to pay the principal, premium, and interest on bonds issued pursuant to [section 5] AND BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987.

(2) There is a debt service account in the debt service fund to be maintained in the fund so long as any bonds remain unpaid. Money in the account created in subsection (1) must be credited to the debt service account immediately after each quarterly collection in an amount equal to:

(a) one-quarter of the principal of the bonds due in the succeeding 12 months; and

(b) one-half of the premium and interest due on the bonds in the next succeeding 6 months.

(3) After each quarterly credit to the debt service account in the debt service fund, the remaining amount in

the account created in subsection (1) in excess of the annual principal and interest due on the bonds in the next succeeding fiscal year must be deposited in and credited to the state fund.

(4) The money in the tax account is pledged to pay the principal of and premium and interest on the bonds.

NEW SECTION. Section 5. Bonds -- tax as security for bonds. (1) The board is authorized to issue and sell up to $80 million principal amount of bonds to finance the unfunded liability in the state fund on receipt of a request from the administrator of the division of workers' compensation setting forth the estimated unfunded liability in the state fund and the amount of bonds requested to be issued.

(2) The board may not issue any bonds unless it finds in the resolution for the bonds that the estimated annual collections from the tax in each calendar year after 1987 will be at least 1.3 times the maximum annual principal and interest due in any future calendar year on all the bonds then outstanding and to be issued.

(3) The legislature shall provide for the continued assessment, levy, collection, and deposit into the tax fund of the tax in amounts sufficient to pay, when due, the annual debt service charges on all outstanding bonds. This requirement may not be modified so as to reduce the security

for any bonds while the bonds are outstanding.

(4) The proceeds of the bonds must be deposited in the state fund, except that any premiums and accrued interest received and proceeds required to pay interest prior to the receipt of tax collection must be deposited in the debt service account in the debt service fund, and all amounts required to pay the costs of issuance of the bonds must be credited to an account for that purpose.

<u>NEW SECTION.</u> Section 6. Issuance of bonds. (1) Each series of bonds must be issued:

(a) by the board at public or private sale;

(b) in denominations and form, whether payable to bearer or registered as to principal or both principal and interest;

(c) with provision for conversion or exchange;

(d) bearing interest at such rate or rates;

(e) to mature at times not exceeding 30 years from the date of issue, subject to redemption at earlier times and prices and on notice; and

(f) payable at the office of the state fiscal agency that the board determines.

(2) The board may prescribe the form and terms of the bonds in all other respects and shall do whatever is lawful and necessary for their issuance and payment.

(3) (a) The bonds and any coupons attached to them

must be signed by the members of the board and issued under the state seal.

(b) The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law.

(4) The state treasurer shall keep a record of all bonds issued and sold.

(5) The board may employ a fiscal agent to assist in the performance of its duties under [this act].

<u>NEW SECTION.</u> Section 7. Protecting rights of bondholders. (1) The resolution pursuant to which the bonds are issued may contain provisions providing for:

(a) the protection and enforcement of the rights and remedies of bondholders as are reasonable, proper, and lawful. The provisions may be those customary in resolutions or indentures securing state bonds or debentures.

(b) the custody, safeguarding, and application of all money.

(2) Any bondholder or party in interest subject to the applicable resolution may sue to enforce the performance of the bond provisions of [this act].

<u>NEW SECTION.</u> Section 8. Refunding obligations -- bond anticipation notes. (1) (a) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that were issued under [this

act]. This includes the payment of any redemption premium and interest accrued or to accrue on the date of redemption of the obligations.

(b) The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of obligations.

(c) Refunding obligations issued under subsection (1) may be sold or exchanged for outstanding obligations issued under [this act]. The proceeds may be applied to the purchase, redemption, or payment of interest on refunding obligations and expenses related to refunding.

(d) Pending the application of the proceeds of refunding obligations to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and if permitted in the resolution authorizing the issuance of the refunding obligations securing them, the proceeds may be invested as provided in Title 17, chapter 6.

(2) The board may issue bond anticipation notes in anticipation of the issuance of bonds pursuant to the applicable terms and provisions of 17-5-805.

NEW SECTION. Section 9. Liability of board members and state employees. The members of the board and officers

and employees of the department and any other state agency are not personally liable or accountable by reason of the issuance of any bond or on any bond.

SECTION 10. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations:

(a) 2-9-202;

(b) 2-17-105;

(c) 2-18-812;

(d) 10-3-203;

(e) 10-3-312;

(f) 10-3-314;

(g) 10-4-301;

(h) 13-37-304;

(i) 15-31-702;

(j) 15-36-112;

(k) 15-70-101;

(l) 16-1-404;

(m) 16-1-410;

(n) 16-1-411;

(o) 17-3-212;

(p) 17-5-404;

(q) 17-5-424;

(r) 17-5-804;

(s) 19-8-504;

(t) 19-9-702;

(u) 19-9-1007;

(v) 19-10-205;

(w) 19-10-305;

(x) 19-10-506;

(y) 19-11-512;

(z) 19-11-513;

(aa) 19-11-606;

(bb) 19-12-301;

(cc) 19-13-604;

(dd) 20-6-406;

(ee) 20-8-111;

(ff) 23-5-612;

(gg) 37-51-501;

(hh) 53-24-206;

(ii) 75-1-1101;

(jj) 75-7-305;

(kk) 80-2-103;

(ll) 80-2-228;

(mm) 90-3-301;

(nn) 90-3-302;

(oo) 90-15-103; **and**

(pp) Sec. 13, HB 861, L. 1985<u>; and</u>

<u>(qq) [section 4]</u>.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments."

<u>NEW SECTION.</u> Section 11. Repealer. Section 39-71-2326, MCA, is repealed.

NEW SECTION. Section 12. Extension of authority. Any existing authority of the department of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. SECTION 13. SEVERABILITY. IF A PART OF THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. Section 14. Effective date. This act is effective on passage and approval.

-End-

HOUSE BILL NO. 884

INTRODUCED BY C. SMITH, DARKO, B. WILLIAMS, THAYER, CONNELLY, JONES, MCCALLUM, DRISCOLL, STANG, COHEN, SQUIRES, RAPP-SVRCEK, HANSEN, REAM, POULSEN, PETERSON, BLAYLOCK, VAN VALKENBURG, HARRINGTON, QUILICI, MCCORMICK, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A SUPPLEMENTAL FUNDING SOURCE FOR THE WORKERS' COMPENSATION STATE FUND THROUGH AN EMPLOYER'S PAYROLL TAX; ~~TO-PROVIDE-FOR THE-SALE-OF-BONDS-TO-FINANCE-THE-UNFUNDED-LIABILITY--OF--THE STATE--FUND;--TO--PROVIDE-THAT-THE-EMPLOYER'S-PAYROLL-TAX-IS SECURITY--FOR--PAYMENT--OF---THE---BONDS;~~ TO STATUTORILY APPROPRIATE THE PAYROLL TAX TO ~~PAY-PRINCIPAL,-PREMIUM,-AND INTEREST-ON-THE-BONDS~~ AND THE UNFUNDED LIABILITY OF THE STATE FUND; AMENDING SECTION 17-7-502, MCA; REPEALING SECTION 39-71-2326, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of examiners created in 2-15-1007.

~~(2)--"Bonds"-means-the-bonds-or-notes--issued--pursuant to-[section-5].~~

~~(3)--"Debt--service--account"-means-the-account-created in-the-debt-service-fund-by-[section-4].~~

~~(4)~~(2) "Department" means the department of labor and industry provided for in 2-15-1701.

~~(5)~~(3) "Employer" has the meaning set forth in 39-71-117.

~~(6)~~(4) "Payroll" means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for all employments covered under 39-71-401.

~~(7)~~(5) "State fund" means the state compensation insurance fund referred to in 39-71-2301.

~~(8)~~(6) "Tax" means the workers' compensation payroll tax provided for in [section 3].

~~(9)~~(7) "Tax account" means the workers' compensation tax account created by [section 4].

NEW SECTION. Section 2. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund and is projected to increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to

THIRD READING

provide a source of funding for the unfunded liability in addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of [this act] is to provide a supplemental source of financing for the unfunded liability ~~and--to--provide--a-general-reduction-in-rates-for-employers insured-under-the-state-fund~~.

NEW SECTION. Section 3. Workers' compensation payroll tax -- penalty. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.57%~~ ~~0.5%~~ 0.2% of the employer's payroll in the preceding

calendar quarter for all employments covered under 39-71-401. ~~An-amount-equal-to-0.5%-of-the~~ THIS payroll tax ~~is--intended--to~~ MUST ~~pay-the-principal-of-and-premium-and interest-on-the-bonds-issued-pursuant--to--[section--5]~~ ~~AND BENEFITS--FOR--INJURIES-THAT-OCCURRED-PRIOR-TO-JUNE-30,-1987~~ BE USED TO REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND. ~~An--amount--equal-to-0.07%-of-the-payroll-tax-is-intended-to provide-a-general-reduction-in-rates-for--employers--insured under-the-state-fund.~~

(b) The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.

(c) The tax must be paid to and collected by the department. The department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.

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

(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is

in addition to any other tax or fee assessed against employers subject to the tax.

(3) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122 regarding deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department.

NEW SECTION. Section 4. Workers' compensation tax account ~~---debt-service-account.~~ ~~(1)~~ There is an account in the state special revenue fund. All collections of the tax and interest and penalties on the tax must be deposited in the account and are statutorily appropriated, as provided in 17-7-502, to ~~pay--the--principal,-premium,-and-interest-on bonds-issued--pursuant--to--[section--5]~~ ~~AND--BENEFITS--FOR INJURIES--THAT--OCCURRED--PRIOR--TO-JUNE-30,-1987~~ REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND.

~~(2)--There-is--a--debt--service--account--in--the--debt service--fund--to--be--maintained-in-the-fund-so-long-as-any bonds--remain--unpaid.--Money--in--the--account--created--in subsection--(1)-must-be-credited-to-the-debt-service-account immediately-after-each-quarterly--collection--in--an--amount equal-to:~~

~~(a)--one-quarter--of--the-principal-of-the-bonds-due-in the-succeeding-12-months;-and~~

~~(b)--one-half-of-the-premium-and-interest--due--on--the~~

~~bonds-in-the-next-succeeding-6-months.~~

~~(3)--After--each--quarterly--credit-to-the-debt-service account-in-the-debt-service-fund,-the--remaining--amount--in the--account--created--in--subsection--(1)--in-excess-of-the annual-principal-and-interest-due-on-the-bonds-in--the--next succeeding--fiscal-year-must-be-deposited-in-and-credited-to the-state-fund.~~

~~(4)--The-money-in-the-tax-account-is-pledged-to-pay-the principal-of-and-premium-and-interest-on-the-bonds.~~

~~NEW-SECTION.~~ ~~Section-5.--Bonds----tax-as-security--for bonds.~~ ~~(1)--The-board-is-authorized-to-issue-and-sell-up-to $80--million--principal--amount--of--bonds--to--finance--the unfunded-liability-in-the-state-fund-on-receipt-of-a-request from---the---administrator---of--the--division--of--workers' compensation-setting-forth-the-estimated-unfunded--liability in--the--state--fund-and-the-amount-of-bonds-requested-to-be issued.~~

~~(2)--The-board-may-not-issue-any-bonds-unless-it--finds in--the--resolution--for-the-bonds-that-the-estimated-annual collections-from-the-tax-in-each-calendar--year--after--1987 will--be-at-least-1.3-times-the-maximum-annual-principal-and interest-due-in-any-future-calendar-year-on--all--the--bonds then-outstanding-and-to-be-issued.~~

~~(3)--The--legislature--shall--provide-for-the-continued assessment,-levy,-collection,-and-deposit-into-the-tax--fund~~

~~of--the--tax--in--amounts--sufficient--to-pay,-when-due,-the annual-debt-service-charges-on-all-outstanding-bonds.---This requirement-may-not-be-modified-so-as-to-reduce-the-security for-any-bonds-while-the-bonds-are-outstanding.~~

~~(4)--The-proceeds-of-the-bonds-must-be-deposited-in-the state--fund,--except--that-any-premiums-and-accrued-interest received-and-proceeds-required-to-pay-interest-prior-to--the receipt--of--tax--collection--must--be-deposited-in-the-debt service-account-in-the-debt-service-fund,--and--all--amounts required--to--pay-the-costs-of-issuance-of-the-bonds-must-be credited-to-an-account-for-that-purpose.~~

~~NEW-SECTION.~~ ~~Section-6.--Issuance-of-bonds.~~ ~~(1)--Each series-of-bonds-must-be-issued:~~

~~(a)--by-the-board-at-public-or-private-sale;~~

~~(b)--in--denominations--and--form,--whether--payable-to bearer-or-registered-as-to-principal-or-both--principal--and interest;~~

~~(c)--with-provision-for-conversion-or-exchange;~~

~~(d)--bearing-interest-at-such-rate-or-rates;~~

~~(e)--to-mature-at-times-not-exceeding-30-years-from-the date--of--issue,--subject-to-redemption-at-earlier-times-and prices-and-on-notice,-and~~

~~(f)--payable-at-the-office-of-the-state--fiscal--agency that-the-board-determines.~~

~~(2)--The--board-may-prescribe-the-form-and-terms-of-the~~

~~bonds-in-all-other-respects-and-shall-do-whatever-is--lawful and-necessary-for-their-issuance-and-payment.~~

~~(3)--(a)-The--bonds--and--any--coupons-attached-to-them must-be-signed-by-the-members-of-the-board-and-issued--under the-state-seal.~~

~~(b)--The---bonds--and--coupons--may--be--executed--with facsimile-signatures-and-seal-in-the-manner-and--subject--to the-limitations-prescribed-by-law.~~

~~(4)--The--state--treasurer--shall--keep-a-record-of-all bonds-issued-and-sold.~~

~~(5)--The-board-may-employ-a-fiscal-agent-to--assist--in the-performance-of-its-duties-under-[this-act].~~

~~NEW-SECTION.~~ ~~Section-7.--Protecting------rights-----of bondholders.~~ ~~(1)-The-resolution-pursuant-to-which-the--bonds are-issued-may-contain-provisions-providing-for:~~

~~(a)--the--protection--and-enforcement-of-the-rights-and remedies-of--bondholders--as--are--reasonable,--proper,--and lawful.-The-provisions-may-be-those-customary-in-resolutions or-indentures-securing-state-bonds-or-debentures.~~

~~(b)--the--custody,-safeguarding,-and-application-of-all money.~~

~~(2)--Any-bondholder-or-party-in-interest-subject-to-the applicable-resolution-may-sue-to-enforce-the-performance--of the-bond-provisions-of-[this-act].~~

~~NEW-SECTION.~~ ~~Section-8.--Refunding-obligations----bond~~

~~anticipation notes. (1) (a) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that were issued under [this act]. This includes the payment of any redemption premium and interest accrued or to accrue on the date of redemption of the obligations.~~

~~(b) The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of obligations.~~

~~(c) Refunding obligations issued under subsection (1) may be sold or exchanged for outstanding obligations issued under [this act]. The proceeds may be applied to the purchase, redemption, or payment of interest on refunding obligations and expenses related to refunding.~~

~~(d) Pending the application of the proceeds of refunding obligations to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and if permitted in the resolution authorizing the issuance of the refunding obligations securing them, the proceeds may be invested as provided in Title 17, chapter 6.~~

~~(2) The board may issue bond anticipation notes in anticipation of the issuance of bonds pursuant to the~~

~~applicable terms and provisions of 17-5-805.~~

~~NEW SECTION.~~ ~~Section 9. Liability of board members and state employees. The members of the board and officers and employees of the department and any other state agency are not personally liable or accountable by reason of the issuance of any bond or on any bond.~~

SECTION 5. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations:

(a) 2-9-202;

(b) 2-17-105;

(c) 2-18-812;

(d) 10-3-203;
(e) 10-3-312;
(f) 10-3-314;
(g) 10-4-301;
(h) 13-37-304;
(i) 15-31-702;
(j) 15-36-112;
(k) 15-70-101;
(l) 16-1-404;
(m) 16-1-410;
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(o) 17-3-212;
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(s) 19-8-504;
(t) 19-9-702;
(u) 19-9-1007;
(v) 19-10-205;
(w) 19-10-305;
(x) 19-10-506;
(y) 19-11-512;
(z) 19-11-513;
(aa) 19-11-606;
(bb) 19-12-301;

(cc) 19-13-604;
(dd) 20-6-406;
(ee) 20-8-111;
(ff) 23-5-612;
(gg) 37-51-501;
(hh) 53-24-206;
(ii) 75-1-1101;
(jj) 75-7-305;
(kk) 80-2-103;
(ll) 80-2-228;
(mm) 90-3-301;
(nn) 90-3-302;
(oo) 90-15-103; ~~and~~
(pp) Sec. 13, HB 861, L. 1985; and
(qq) [section 4].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for

such payments."

<u>NEW SECTION.</u> Section 6. Repealer. Section 39-71-2326, MCA, is repealed.

<u>NEW SECTION.</u> Section 7. Extension of authority. Any existing authority of the department of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

<u>NEW SECTION. SECTION 8. SEVERABILITY. IF A PART OF THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.</u>

<u>NEW SECTION.</u> Section 9. Effective date <u>-- TERMINATION</u>. This act is effective on passage and approval <u>AND TERMINATES JUNE 30, 1989</u>.

-End-

HOUSE BILL NO. 884

INTRODUCED BY C. SMITH, DARKO, B. WILLIAMS, THAYER, CONNELLY, JONES, MCCALLUM, DRISCOLL, STANG, COHEN, SQUIRES, RAPP-SVRCEK, HANSEN, REAM, POULSEN, PETERSON, BLAYLOCK, VAN VALKENBURG, HARRINGTON, QUILICI, MCCORMICK, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A SUPPLEMENTAL FUNDING SOURCE FOR THE WORKERS' COMPENSATION STATE FUND THROUGH AN EMPLOYER'S PAYROLL TAX; ~~TO-PROVIDE-FOR THE-SALE-OF-BONDS-TO-FINANCE-THE-UNFUNDED-LIABILITY--OF--THE STATE--FUND;--TO--PROVIDE-THAT-THE-EMPLOYER'S-PAYROLL-TAX-IS SECURITY--FOR--PAYMENT--OF---THE---BONDS;~~ TO STATUTORILY APPROPRIATE THE PAYROLL TAX TO ~~PAY-PRINCIPAL,-PREMIUM,-AND INTEREST-ON-THE-BONDS AND~~ THE UNFUNDED LIABILITY OF THE STATE FUND; AMENDING SECTION 17-7-502, MCA; REPEALING SECTION 39-71-2326, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of examiners created in 2-15-1007.

~~(2)--"Bonds"-means-the-bonds-or-notes--issued--pursuant to-[section-5].~~

~~(3)--"Debt--service--account"-means-the-account-created in-the-debt-service-fund-by-[section-4].~~

~~(4)~~(2) "Department" means the department of labor and industry provided for in 2-15-1701.

~~(5)~~(3) "Employer" has the meaning set forth in 39-71-117.

~~(6)~~(4) "Payroll" means the payroll of an employer for each of the calendar quarters ending March 31, June 30, September 30, and December 31, for all employments covered under 39-71-401.

~~(7)~~(5) "State fund" means the state compensation insurance fund referred to in 39-71-2301.

~~(8)~~(6) "Tax" means the workers' compensation payroll tax provided for in [section 3].

~~(9)~~(7) "Tax account" means the workers' compensation tax account created by [section 4].

NEW SECTION. Section 2. Findings and purpose. (1) Based on current liabilities and actuarial analysis, an unfunded liability presently exists in the state fund and is projected to increase. While legislative action is required to correct the causes of the unfunded liability, those actions will not provide sufficient funds to permit the state fund to pay its existing liabilities and obligations in a timely manner from premium and investment income available to the state fund. Therefore, it is necessary to

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provide a source of funding for the unfunded liability in addition to premium and investment income.

(2) The police power of the state extends to all great public needs. The state, in the exercise of its police power, has determined that it is greatly and immediately necessary to the public welfare to make workers' compensation insurance available to all employers through the state fund as the insurer of last resort. In making this insurance available, the state fund has incurred the unfunded liability described in subsection (1). The burden of this unfunded liability should not be borne solely by those employers who have insured with the state fund because the availability of insurance to all employers through the state fund has benefited all employers who have workers' compensation coverage. Therefore, all employers who have employments covered by the workers' compensation laws should share in the cost of the unfunded liability.

(3) The purpose of [this act] is to provide a supplemental source of financing for the unfunded liability ~~and to provide a general reduction in rates for employers insured under the state fund~~.

NEW SECTION. Section 3. Workers' compensation payroll tax -- penalty. (1) (a) There is imposed on each employer a workers' compensation payroll tax in an amount equal to ~~0.57%~~ ~~0.5%~~ ~~0.2%~~ 0.3% of the employer's payroll in the

preceding calendar quarter for all employments covered under 39-71-401. ~~An amount equal to 0.5% of the~~ THIS payroll tax ~~is intended to~~ MUST ~~pay the principal of and premium and interest on the bonds issued pursuant to [section 5]~~ ~~AND BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987~~ BE USED TO REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND. ~~An amount equal to 0.07% of the payroll tax is intended to provide a general reduction in rates for employers insured under the state fund.~~

(b) The tax is due and payable following the end of each calendar quarter, commencing with the quarter ending September 30, 1987.

(c) The tax must be paid to and collected by the department. The department shall prepare appropriate returns to be filed by each employer or insurer with the payment of the tax.

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

(e) Taxes not paid when due bear interest at the rate of 1% a month. The employer shall also pay a penalty equal to 10% of the amount of the delinquent tax.

(2) All collections of the tax are appropriated to and must be deposited as received in the tax account. The tax is

in addition to any other tax or fee assessed against employers subject to the tax.

(3) Sections 15-35-112 through 15-35-114, 15-35-121, and 15-35-122 regarding deficiency assessments, credits for overpayment, statute of limitations, penalties, and department rulemaking authority apply to the tax, to employers, and to the department.

NEW SECTION. Section 4. Workers' compensation tax account ~~--debt service account.~~ ~~(1)~~ There is an account in the state special revenue fund. All collections of the tax and interest and penalties on the tax must be deposited in the account and are statutorily appropriated, as provided in 17-7-502, to THE DEPARTMENT TO BE USED TO ~~pay the principal, premium, and interest on bonds issued pursuant to [section 5]~~ ~~AND BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987~~ REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND.

~~(2) There is a debt service account in the debt service fund to be maintained in the fund so long as any bonds remain unpaid. Money in the account created in subsection (1) must be credited to the debt service account immediately after each quarterly collection in an amount equal to:~~

~~(a) one quarter of the principal of the bonds due in the succeeding 12 months; and~~

~~(b) one half of the premium and interest due on the bonds in the next succeeding 6 months.~~

~~(3) After each quarterly credit to the debt service account in the debt service fund, the remaining amount in the account created in subsection (1) in excess of the annual principal and interest due on the bonds in the next succeeding fiscal year must be deposited in and credited to the state fund.~~

~~(4) The money in the tax account is pledged to pay the principal of and premium and interest on the bonds.~~

~~NEW SECTION. Section 5. Bonds -- tax as security for bonds. (1) The board is authorized to issue and sell up to $80 million principal amount of bonds to finance the unfunded liability in the state fund on receipt of a request from the administrator of the division of workers' compensation setting forth the estimated unfunded liability in the state fund and the amount of bonds requested to be issued.~~

~~(2) The board may not issue any bonds unless it finds in the resolution for the bonds that the estimated annual collections from the tax in each calendar year after 1987 will be at least 1.3 times the maximum annual principal and interest due in any future calendar year on all the bonds then outstanding and to be issued.~~

~~(3) The legislature shall provide for the continued assessment, levy, collection, and deposit into the tax fund~~

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~~of-the-tax-in-amounts--sufficient--to--pay,--when--due,--the annual--debt-service-charges-on-all-outstanding-bonds.--This requirement-may-not-be-modified-so-as-to-reduce-the-security for-any-bonds-while-the-bonds-are-outstanding.~~

~~(4)--The-proceeds-of-the-bonds-must-be-deposited-in-the state-fund,-except-that-any-premiums--and--accrued--interest received--and-proceeds-required-to-pay-interest-prior-to-the receipt-of-tax-collection-must--be--deposited--in--the--debt service--account--in--the-debt-service-fund,-and-all-amounts required-to-pay-the-costs-of-issuance-of-the-bonds--must--be credited-to-an-account-for-that-purpose.~~

~~NEW-SECTION.~~ ~~Section-6.--Issuance--of--bonds.~~ ~~(1)-Each series-of-bonds-must-be-issued:~~

~~(a)--by-the-board-at-public-or-private-sale;~~

~~(b)--in-denominations--and--form,--whether--payable--to bearer--or--registered-as-to-principal-or-both-principal-and interest;~~

~~(c)--with-provision-for-conversion-or-exchange;~~

~~(d)--bearing-interest-at-such-rate-or-rates;~~

~~(e)--to-mature-at-times-not-exceeding-30-years-from-the date-of-issue,-subject-to-redemption-at--earlier--times--and prices-and-on-notice;-and~~

~~(f)--payable--at--the-office-of-the-state-fiscal-agency that-the-board-determines.~~

~~(2)--The-board-may-prescribe-the-form-and-terms-of--the~~

~~bonds--in-all-other-respects-and-shall-do-whatever-is-lawful and-necessary-for-their-issuance-and-payment.~~

~~(3)--(a)-The-bonds-and-any--coupons--attached--to--them must--be-signed-by-the-members-of-the-board-and-issued-under the-state-seal.~~

~~(b)--The--bonds--and--coupons--may--be--executed---with facsimile--signatures--and-seal-in-the-manner-and-subject-to the-limitations-prescribed-by-law.~~

~~(4)--The-state-treasurer-shall-keep--a--record--of--all bonds-issued-and-sold.~~

~~(5)--The--board--may-employ-a-fiscal-agent-to-assist-in the-performance-of-its-duties-under-[this-act].~~

~~NEW-SECTION.~~ ~~Section-7.--Protecting-----rights------of bondholders.~~ ~~(1)-The-resolution-pursuant-to-which-the-bonds are-issued-may-contain-provisions-providing-for:~~

~~(a)--the-protection-and-enforcement-of-the--rights--and remedies--of--bondholders--as--are--reasonable,--proper,-and lawful.-The-provisions-may-be-those-customary-in-resolutions or-indentures-securing-state-bonds-or-debentures.~~

~~(b)--the-custody,-safeguarding,-and-application-of--all money.~~

~~(2)--Any-bondholder-or-party-in-interest-subject-to-the applicable--resolution-may-sue-to-enforce-the-performance-of the-bond-provisions-of-[this-act].~~

~~NEW-SECTION.~~ ~~Section-8.--Refunding-obligations----bond~~

~~anticipation notes. (1) (a) The board may provide for the issuance of refunding obligations for refunding any obligations then outstanding that were issued under [this act]. This includes the payment of any redemption premium and interest accrued or to accrue on the date of redemption of the obligations.~~

~~(b) The issuance of refunding obligations, the maturities and other details, the rights of the holders, and the rights, duties, and obligations of the state are governed by the appropriate provisions of [this act] that relate to the issuance of obligations.~~

~~(c) Refunding obligations issued under subsection (1) may be sold or exchanged for outstanding obligations issued under [this act]. The proceeds may be applied to the purchase, redemption, or payment of interest on refunding obligations and expenses related to refunding.~~

~~(d) Pending the application of the proceeds of refunding obligations to the payment of principal, accrued interest, and any redemption premium on the obligations being refunded and if permitted in the resolution authorizing the issuance of the refunding obligations securing them, the proceeds may be invested as provided in Title 17, chapter 6.~~

~~(2) The board may issue bond anticipation notes in anticipation of the issuance of bonds pursuant to the~~

~~applicable terms and provisions of 17-5-805.~~

~~NEW SECTION. Section 9. Liability of board members and state employees. The members of the board and officers and employees of the department and any other state agency are not personally liable or accountable by reason of the issuance of any bond or on any bond.~~

SECTION 5. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations:

(a) 2-9-202;

(b) 2-17-105;

(c) 2-18-812;

(d) 10-3-203;
(e) 10-3-312;
(f) 10-3-314;
(g) 10-4-301;
(h) 13-37-304;
(i) 15-31-702;
(j) 15-36-112;
(k) 15-70-101;
(l) 16-1-404;
(m) 16-1-410;
(n) 16-1-411;
(o) 17-3-212;
(p) 17-5-404;
(q) 17-5-424;
(r) 17-5-804;
(s) 19-8-504;
(t) 19-9-702;
(u) 19-9-1007;
(v) 19-10-205;
(w) 19-10-305;
(x) 19-10-506;
(y) 19-11-512;
(z) 19-11-513;
(aa) 19-11-606;
(bb) 19-12-301;

(cc) 19-13-604;
(dd) 20-6-406;
(ee) 20-8-111;
(ff) 23-5-612;
(gg) 37-51-501;
(hh) 53-24-206;
(ii) 75-1-1101;
(jj) 75-7-305;
(kk) 80-2-103;
(ll) 80-2-228;
(mm) 90-3-301;
(nn) 90-3-302;
(oo) 90-15-103; and
(pp) Sec. 13, HB 861, L. 1985; and
(qq) [section 4].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for

such payments."

NEW SECTION. Section 6. Repealer. Section 39-71-2326, MCA, is repealed.

NEW SECTION. Section 7. Extension of authority. Any existing authority of the department of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. SECTION 8. PRIOR LAW SUPERSEDED. [THIS ACT] HEREBY SUPERSEDES THE PROVISIONS OF 1-2-113 AS IT MAY APPLY TO [THIS ACT].

NEW SECTION. SECTION 9. SEVERABILITY. IF A PART OF THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. Section 10. Effective date -- TERMINATION. This act is effective on passage and approval AND TERMINATES JUNE 30, ~~1989~~ 1991.

-End-

STANDING COMMITTEE REPORT

SENATE April 9, 1987

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No 884

third reading copy (blue)
color

PAYROLL TAX TO FUND WORKERS' COMP. PLAN NO. 3; SALE OF BONDS

SMITH (LYNCH)

Respectfully report as follows: That HOUSE BILL No 884
be amended as follows:

1. Page 13, line 8.
Following: line 7
Insert: "NEW SECTION. Section 8. Prior law superseded. [This act] hereby supersedes the provisions of 1-2-113 as it may apply to [this act]."
Renumber: subsequent sections

AND AS AMENDED,
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Sen. John "J.D." Lynch, Chairman.

4/9/87
5:05
JJS