

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.



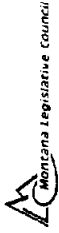
House BILL NO. *884* *Council*
 INTRODUCED BY *C. S. Spitzer, Barbara D. Miller, Jeffrey*
James McWhorter, State Representative
 A BILL FOR AN ACT ENTITLED: *AN ACT TO PROVIDE A*
Supplemental Funding Source for the Workers' Compensation
 SUPPLEMENTAL FUNDING SOURCE FOR THE WORKERS' COMPENSATION *HAPP*
System

1 (6) "Payroll" means the payroll of an employer for
 2 each of the calendar quarters ending March 31, June 30,
 3 September 30, and December 31, for all employments covered
 4 under 39-71-401.
 5 (7) "State fund" means the state compensation
 6 insurance fund referred to in 39-71-2301.
 7 (8) "Tax" means the workers' compensation payroll tax
 8 provided for in [section 3].
 9 (9) "Tax account" means the workers' compensation tax
 10 account created by [section 4].
 11 Section 2. Findings and purpose. (1) Based on current
 12 liabilities and actuarial analysis, an unfunded liability
 13 presently exists in the state fund and is projected to
 14 increase. While legislative action is required to correct
 15 the causes of the unfunded liability, those actions will not
 16 provide sufficient funds to permit the state fund to pay its
 17 existing liabilities and obligations in a timely manner from
 18 premium and investment income available to the state fund.
 19 Therefore, it is necessary to provide a source of funding
 20 for the unfunded liability in addition to premium and
 21 investment income.
 22 (2) The police power of the state extends to all great
 23 public needs. The state, in the exercise of its police
 24 power, has determined that it is greatly and immediately
 25 necessary to the public welfare to make workers'

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.

INTRODUCED BILL
 HB-884



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

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

16 Section 3. Workers' compensation payroll tax --
 17 penalty. (1) (a) There is imposed on each employer a
 18 workers' compensation payroll tax in an amount equal to
 19 0.57% of the employer's payroll in the preceding calendar
 20 quarter for all employments covered under 39-71-401. An
 21 amount equal to 0.5% of the payroll tax is intended to pay
 22 the principal of and premium and interest on the bonds
 23 issued pursuant to [section 5]. An amount equal to 0.07% of
 24 the payroll tax is intended to provide a general reduction
 25 in rates for employers insured under the state fund.

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

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

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

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

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

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

24 Section 4. Workers' compensation tax account -- debt
 25 service account. (1) There is an account in the state

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

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

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

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

25 Section 6. Issuance of bonds. (1) Each series of bonds

1 special revenue fund. All collections of the tax and
 2 interest and penalties on the tax must be deposited in the
 3 account and are statutorily appropriated, as provided in
 4 17-7-502, to pay the principal, premium, and interest on
 5 bonds issued pursuant to [section 5].

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

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

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

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

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

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

1 must be issued:

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

3 (b) in denominations and form, whether payable to

4 bearer or registered as to principal or both principal and

5 interest;

6 (c) with provision for conversion or exchange;

7 (d) bearing interest at such rate or rates;

8 (e) to mature at times not exceeding 30 years from the

9 date of issue, subject to redemption at earlier times and

10 prices and on notice; and

11 (f) payable at the office of the state fiscal agency

12 that the board determines.

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

14 bonds in all other respects and shall do whatever is lawful

15 and necessary for their issuance and payment.

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

17 must be signed by the members of the board and issued under

18 the state seal.

19 (b) The bonds and coupons may be executed with

20 facsimile signatures and seal in the manner and subject to

21 the limitations prescribed by law.

22 (4) The state treasurer shall keep a record of all

23 bonds issued and sold.

24 (5) The board may employ a fiscal agent to assist in

25 the performance of its duties under [this act].

1 Section 7. Protecting rights of bondholders. (1) The

2 resolution pursuant to which the bonds are issued may

3 contain provisions providing for:

4 (a) the protection and enforcement of the rights and

5 remedies of bondholders as are reasonable, proper, and

6 lawful. The provisions may be those customary in resolutions

7 or indentures securing state bonds or debentures.

8 (b) the custody, safeguarding, and application of all

9 money.

10 (2) Any bondholder or party in interest subject to the

11 applicable resolution may sue to enforce the performance of

12 the bond provisions of [this act].

13 Section 8. Refunding obligations -- bond anticipation

14 notes. (1) (a) The board may provide for the issuance of

15 refunding obligations for refunding any obligations then

16 outstanding that were issued under [this act]. This includes

17 the payment of any redemption premium and interest accrued

18 or to accrue on the date of redemption of the obligations.

19 (b) The issuance of refunding obligations, the

20 maturities and other details, the rights of the holders, and

21 the rights, duties, and obligations of the state are

22 governed by the appropriate provisions of [this act] that

23 relate to the issuance of obligations.

24 (c) Refunding obligations issued under subsection (1)

25 may be sold or exchanged for outstanding obligations issued

1 passage and approval.

1 under [this act]. The proceeds may be applied to the
2 purchase, redemption, or payment of interest on refunding
3 obligations and expenses related to refunding.

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

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

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

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

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

25 Section 12. Effective date. This act is effective on

-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:

Expenditures:
FTE

Personal Services		
Operating Expenses		
Workers' Compensation	82,791	27,719
State Auditor	15,000	0
	<u>\$ 15,571</u>	<u>\$ 15,511</u>
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

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

Cost to state government per year:

<u>Payroll Tax</u>	<u>General Fund</u>	<u>Other Funds</u>
\$ 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:

Expenditures:
FTE

	<u>FY88</u>	<u>FY89</u>
Personal Services	\$ 15,571	\$ 15,511
Operating Expenses	82,791	27,719
Workers' Compensation	<u>15,000</u>	<u>0</u>
State Auditor	<u>\$113,362</u>	<u>\$ 43,230</u>
TOTAL		

David L. Hunter DATE 4/16/87
DAVID L. HUNTER, BUDGET DIRECTOR

DATE

Clyde Smith
CLYDE SMITH, PRIMARY SPONSOR

Office of Budget and Program Planning

Fiscal Note for HB884, reference copy.

HB 884
#2

FISCAL IMPACT (continued):

Source of Funding:

State Special Revenue Fund

	<u>FY88</u>	<u>FY89</u>
Revenues:		
\$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	<u>General Fund</u>	<u>Other Funds</u>
\$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
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RE-REFERRED 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 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."

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]. 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 provide a source of funding for the unfunded liability in



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

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

21 NEW SECTION. Section 3. Workers' compensation payroll
 22 tax -- penalty. (1) (a) There is imposed on each employer a
 23 workers' compensation payroll tax in an amount equal to
 24 0.57% of the employer's payroll in the preceding
 25 calendar quarter for all employments covered under

1 39-71-401. An amount equal to 0.5% of the THIS payroll tax
 2 is intended to MUST pay the principal of and premium and
 3 interest on the bonds issued pursuant to [section 5] AND
 4 BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987.
 5 An amount equal to 0.07% of the payroll tax is intended to
 6 provide a general reduction in rates for employers insured
 7 under the state fund.

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

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

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

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

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

6 NEW SECTION. Section 4. Workers' compensation tax
 7 account -- debt service account. (1) There is an account in
 8 the state special revenue fund. All collections of the tax
 9 and interest and penalties on the tax must be deposited in
 10 the account and are statutorily appropriated, as provided in
 11 17-7-502, to pay the principal, premium, and interest on
 12 bonds issued pursuant to [section 5] AND BENEFITS FOR
 13 INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987.

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

20 (a) one-quarter of the principal of the bonds due in
 21 the succeeding 12 months; and
 22 (b) one-half of the premium and interest due on the
 23 bonds in the next succeeding 6 months.

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

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

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

7 NEW SECTION. Section 5. Bonds -- tax as security for
 8 bonds. (1) The board is authorized to issue and sell up to
 9 \$80 million principal amount of bonds to finance the
 10 unfunded liability in the state fund on receipt of a request
 11 from the administrator of the division of workers'
 12 compensation setting forth the estimated unfunded liability
 13 in the state fund and the amount of bonds requested to be
 14 issued.

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

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

1 for any bonds while the bonds are outstanding.

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

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

- 11 (a) by the board at public or private sale;
- 12 (b) in denominations and form, whether payable to
13 bearer or registered as to principal or both principal and
14 interest;
- 15 (c) with provision for conversion or exchange;
- 16 (d) bearing interest at such rate or rates;
- 17 (e) to mature at times not exceeding 30 years from the
18 date of issue, subject to redemption at earlier times and
19 prices and on notice; and
- 20 (f) payable at the office of the state fiscal agency
21 that the board determines.

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

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

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

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

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

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

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

- 13 (a) the protection and enforcement of the rights and
14 remedies of bondholders as are reasonable, proper, and
15 lawful. The provisions may be those customary in resolutions
16 or indentures securing state bonds or debentures.
- 17 (b) the custody, safeguarding, and application of all
18 money.

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

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

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

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

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

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

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

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

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

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

5 "17-7-502. Statutory appropriations -- definition --
 6 requisites for validity. (1) A statutory appropriation is an
 7 appropriation made by permanent law that authorizes spending
 8 by a state agency without the need for a biennial
 9 legislative appropriation or budget amendment.

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

13 (a) The law containing the statutory authority must be
 14 listed in subsection (3).
 15 (b) The law or portion of the law making a statutory
 16 appropriation must specifically state that a statutory
 17 appropriation is made as provided in this section.

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

- 20 (a) 2-9-202;
- 21 (b) 2-17-105;
- 22 (c) 2-18-812;
- 23 (d) 10-3-203;
- 24 (e) 10-3-312;
- 25 (f) 10-3-314;

1 (g) 10-4-301;
2 (h) 13-37-304;
3 (i) 15-31-702;
4 (j) 15-36-112;
5 (k) 15-70-101;
6 (l) 16-1-404;
7 (m) 16-1-410;
8 (n) 16-1-411;
9 (o) 17-3-212;
10 (p) 17-5-404;
11 (q) 17-5-424;
12 (r) 17-5-804;
13 (s) 19-8-504;
14 (t) 19-9-702;
15 (u) 19-9-1007;
16 (v) 19-10-205;
17 (w) 19-10-305;
18 (x) 19-10-506;
19 (y) 19-11-512;
20 (z) 19-11-513;
21 (aa) 19-11-606;
22 (bb) 19-12-301;
23 (cc) 19-13-604;
24 (dd) 20-6-406;
25 (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 11. Repealer. Section 39-71-2326, MCA, is repealed.

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

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

11 NEW SECTION. Section 14. Effective date. This act is
12 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 SALES OF BONDS TO FINANCE THE UNFUNDED LIABILITY OF THE
 STATE 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:
 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



1 provide a source of funding for the unfunded liability in
 2 addition to premium and investment income.
 3 (2) The police power of the state extends to all great
 4 public needs. The state, in the exercise of its police
 5 power, has determined that it is greatly and immediately
 6 necessary to the public welfare to make workers'
 7 compensation insurance available to all employers through
 8 the state fund as the insurer of last resort. In making this
 9 insurance available, the state fund has incurred the
 10 unfunded liability described in subsection (1). The burden
 11 of this unfunded liability should not be borne solely by
 12 those employers who have insured with the state fund because
 13 the availability of insurance to all employers through the
 14 state fund has benefited all employers who have workers'
 15 compensation coverage. Therefore, all employers who have
 16 employments covered by the workers' compensation laws should
 17 share in the cost of the unfunded liability.

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

22 NEW SECTION. Section 3. Workers' compensation payroll
 23 tax -- penalty. (1) (a) There is imposed on each employer a
 24 workers' compensation payroll tax in an amount equal to
 25 0.57% 0.5% 0.2% of the employer's payroll in the preceding

1 calendar quarter for all employments covered under
 2 39-71-401. An amount equal to 0.5% of the THIS payroll tax
 3 is intended to MUST pay the principal of and premium and
 4 interest on the bonds issued pursuant to section 5) AND
 5 BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987
 6 BE USED TO REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND.

7 An amount equal to 0.07% of the payroll tax is intended to
 8 provide a general reduction in rates for employers insured
 9 under the state fund.
 10 (b) The tax is due and payable following the end of
 11 each calendar quarter, commencing with the quarter ending
 12 September 30, 1987.

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

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

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

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

1 in addition to any other tax or fee assessed against
 2 employers subject to the tax.
 3 (3) Sections 15-35-112 through 15-35-114, 15-35-121,
 4 and 15-35-122 regarding deficiency assessments, credits for
 5 overpayment, statute of limitations, penalties, and
 6 department rulemaking authority apply to the tax, to
 7 employers, and to the department.

8 NEW SECTION. Section 4. Workers' compensation tax
 9 account ---debt-service-account. (1) There is an account in
 10 the state special revenue fund. All collections of the tax
 11 and interest and penalties on the tax must be deposited in
 12 the account and are statutorily appropriated, as provided in
 13 17-7-502, to pay--the--principal, premium, and interest on
 14 bonds issued pursuant to--(section-5) AND--BENEFITS--FOR
 15 INDUSTRIES--THAT--OPERATE--PRIOR--TO--JUNE--30--1987 REDUCE THE
 16 UNFUNDED LIABILITY IN THE STATE FUND.

17 (2) There is a--debt--service--account--in--the--debt
 18 service--fund--to--be--maintained--in--the--fund--so--long--as--any
 19 bonds--remain--unpaid. Money--in--the--account--created--in
 20 subsection--(1)--must--be--credited--to--the--debt--service--account
 21 immediately after each quarterly collection--in--an--amount
 22 equal to:
 23 (a) one-quarter--of--the--principal--of--the--bonds--due--in
 24 the--succeeding--12--months; and
 25 (b) one-half--of--the--premium--and--interest--due--on--the

1 bonds in the next succeeding 6 months.
 2 (3) After each quarterly credit to the debt service
 3 account in the debt service fund, the remaining amount in
 4 the account created in subsection (1) in excess of the
 5 annual principal and interest due on the bonds in the next
 6 succeeding fiscal year must be deposited in and credited to
 7 the state fund.

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

10 NEW SECTION. Section 5. Bonds--tax--as--security--for
 11 bonds. (1) The board is authorized to issue and sell up to
 12 \$80 million principal amount of bonds to finance the
 13 unfunded liability in the state fund on receipt of a request
 14 from the administrator of the division of workers'
 15 compensation setting forth the estimated unfunded liability
 16 in the state fund and the amount of bonds requested to be
 17 issued:

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

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

1 of the tax in amounts sufficient to pay when due the
 2 annual debt service charges on all outstanding bonds. This
 3 requirement may not be modified so as to reduce the security
 4 for any bonds while the bonds are outstanding.
 5 (4) The proceeds of the bonds must be deposited in the
 6 state fund except that any premiums and accrued interest
 7 received and proceeds required to pay interest prior to the
 8 receipt of tax collection must be deposited in the debt
 9 service account in the debt service fund and all amounts
 10 required to pay the costs of issuance of the bonds must be
 11 credited to an account for that purpose.
 12 NEW SECTION: Section 6. Issuance of bonds. (1) Each
 13 series of bonds must be issued:
 14 (a) by the board at public or private sale;
 15 (b) in denominations and form, whether payable to
 16 bearer or registered as to principal or both principal and
 17 interest;
 18 (c) with provision for conversion or exchange;
 19 (d) bearing interest at such rate or rates;
 20 (e) to mature at times not exceeding 30 years from the
 21 date of issue, subject to redemption at earlier times and
 22 prices and on notice; and
 23 (f) payable at the office of the state fiscal agency
 24 that the board determines.
 25 (2) The board may prescribe the form and terms of the

1 bonds in all other respects and shall do whatever is lawful
 2 and necessary for their issuance and payment.
 3 (3) (a) The bonds and any coupons attached to them
 4 must be signed by the members of the board and issued under
 5 the state seal.
 6 (b) The bonds and coupons may be executed with
 7 facsimile signatures and seal in the manner and subject to
 8 the limitations prescribed by law.
 9 (4) The state treasurer shall keep a record of all
 10 bonds issued and sold.
 11 (5) The board may employ a fiscal agent to assist in
 12 the performance of its duties under this act.
 13 NEW SECTION: Section 7. Protecting rights of
 14 bondholders. (1) The resolution pursuant to which the bonds
 15 are issued may contain provisions providing for:
 16 (a) the protection and enforcement of the rights and
 17 remedies of bondholders as are reasonable property and
 18 lawful; the provisions may be those customary in resolutions
 19 or indentures securing state bonds or debentures;
 20 (b) the custody, safeguarding, and application of all
 21 money;
 22 (2) Any bondholder or party in interest subject to the
 23 applicable resolution may sue to enforce the performance of
 24 the bond provisions of this act.
 25 NEW SECTION: Section 8. Refunding obligations. bond

1 anticipation notes. (i) the board may provide for the
 2 issuance of refunding obligations for refunding any
 3 obligations then outstanding that were issued under this
 4 act. This includes the payment of any redemption premium
 5 and interest accrued or to accrue on the date of redemption
 6 of the obligations.

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

12 (c) Refunding obligations issued under subsection (i)
 13 may be sold or exchanged for outstanding obligations issued
 14 under this act. The proceeds may be applied to the
 15 purchase, redemption, or payment of interest on refunding
 16 obligations and expenses related to refunding.

17 (d) Pending the application of the proceeds of
 18 refunding obligations to the payment of principal accrued
 19 interest, and any redemption premium on the obligations
 20 being refunded, and if permitted in the resolution
 21 authorizing the issuance of the refunding obligations
 22 securing them, the proceeds may be invested as provided in
 23 Article 17, Chapter 6.

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

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

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

7 SECTION 5. SECTION 17-7-502, MCA, IS AMENDED TO READ:
 8 "17-7-502. Statutory appropriations -- definition --
 9 requisites for validity. (1) A statutory appropriation is an
 10 appropriation made by permanent law that authorizes spending
 11 by a state agency without the need for a biennial
 12 legislative appropriation or budget amendment.

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

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

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

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

23 (a) 2-9-202;
 24 (b) 2-17-105;
 25 (c) 2-18-812;

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

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

16 (4) There is a statutory appropriation to pay the
 17 principal, interest, premiums, and costs of issuing, paying,
 18 and securing all bonds, notes, or other obligations, as due,
 19 that have been authorized and issued pursuant to the laws of
 20 Montana. Agencies that have entered into agreements
 21 authorized by the laws of Montana to pay the state
 22 treasurer, for deposit in accordance with 17-2-101 through
 23 17-2-107, as determined by the state treasurer, an amount
 24 sufficient to pay the principal and interest as due on the
 25 bonds or notes have statutory appropriation authority for

1 such payments."

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

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

8 NEW SECTION. SECTION 8. SEVERABILITY. IF A PART OF
9 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
10 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
11 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
12 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
13 THE INVALID APPLICATIONS.

14 NEW SECTION. Section 9. Effective date --
15 TERMINATION. This act is effective on passage and approval
16 AND TERMINATES JUNE 30, 1989.

-End-



HOUSE BILL NO. 884

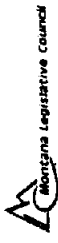
INTRODUCED BY C. SMITH, DARKO, B. WILLIAMS, THAYER, CONNELLY, JONES, MCCALLUM, DRISCOLL, STANG, COHEN, SQUIRES, RAPP-SVRCEK, HANSEN, REAM, POULSEN, PETERSON, BLAYLOCK, VAN VALKENBURG, HARRINGTON, QUILICI, MCCORMICK, HARP

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 LIABILITIES 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 PREMIUMS 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



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

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

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

22 NEW SECTION. Section 3. Workers' compensation payroll
23 tax -- penalty. (1) (a) There is imposed on each employer a
24 workers' compensation payroll tax in an amount equal to
25 0.5% 0.5% 0.2% 0.3% of the employer's payroll in the

1 preceding calendar quarter for all employments covered under
2 39-71-401. An amount equal to 0.5% of the THIS payroll tax
3 is intended to MUST pay the principal of and premium and
4 interest on the bonds issued pursuant to section 5} AND
5 BENEFITS FOR INJURIES THAT OCCURRED PRIOR TO JUNE 30, 1987
6 BE USED TO REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND.
7 An amount equal to 0.07% of the payroll tax is intended to
8 provide a general reduction in rates for employers insured
9 under the state fund.

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

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

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

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

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

1 bonds in the next succeeding 6 months;
 2 (3) After each quarterly credit to the debt service
 3 account in the debt service fund, the remaining amount in
 4 the account created in subsection (1) in excess of the
 5 annual principal and interest due on the bonds in the next
 6 succeeding fiscal year must be deposited in and credited to
 7 the state fund;

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

10 NEW SECTION. Section 5. Bonds tax as security for
 11 bonds. (1) The board is authorized to issue and set up to
 12 900 million principal amount of bonds to finance the
 13 unfunded liability in the state fund on receipt of a request
 14 from the administrator of the division of workers'
 15 compensation setting forth the estimated unfunded liability
 16 in the state fund and the amount of bonds requested to be
 17 issued;

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

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

1 in addition to any other tax or fee assessed against
 2 employers subject to the tax.
 3 (3) Sections 15-35-112 through 15-35-114, 15-35-121,
 4 and 15-35-122 regarding deficiency assessments, credits for
 5 overpayment, statute of limitations, penalties, and
 6 department rulemaking authority apply to the tax, to
 7 employers, and to the department.

8 NEW SECTION. Section 4. Workers' compensation tax
 9 account ---debt service account. (1) There is an account in
 10 the state special revenue fund. All collections of the tax
 11 and interest and penalties on the tax must be deposited in
 12 the account and are statutorily appropriated, as provided in
 13 17-7-502, to THE DEPARTMENT TO BE USED TO pay the principal
 14 premium, and interest on bonds issued pursuant to section
 15 51 ANB-BENEFITS-POR-INDURIES-SHAT-OCCURRED-PRIOR-TO-JUNE-30
 16 1987 REDUCE THE UNFUNDED LIABILITY IN THE STATE FUND.

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

23 (a) one quarter of the principal of the bonds due in
 24 the succeeding 12 months; and
 25 (b) one half of the premium and interest due on the

1 of the tax in amounts sufficient to pay when due, the
 2 annual debt service charges on all outstanding bonds, this
 3 requirement may not be modified so as to reduce the security
 4 for any bonds while the bonds are outstanding;
 5 (4) The proceeds of the bonds must be deposited in the
 6 state fund, except that any premiums and accrued interest
 7 received and proceeds required to pay interest prior to the
 8 receipt of tax collection must be deposited in the debt
 9 service account in the debt service fund and all amounts
 10 required to pay the costs of issuance of the bonds must be
 11 credited to an account for that purpose;
 12 NEW SECTION Section 6. Issuance of bonds. (i) Each
 13 series of bonds must be issued:
 14 (a) by the board at public or private sale;
 15 (b) in denominations and form, whether payable to
 16 bearer or registered as to principal or both principal and
 17 interest;
 18 (c) with provision for conversion or exchange;
 19 (d) bearing interest at such rate or rates;
 20 (e) to mature at times not exceeding 30 years from the
 21 date of issue, subject to redemption at earlier times and
 22 prices and on notice; and
 23 (f) payable at the office of the state fiscal agency
 24 that the board determines;
 25 (2) The board may prescribe the form and terms of the

1 bonds in all other respects and shall do whatever is lawful
 2 and necessary for their issuance and payment;
 3 (3) (a) The bonds and any coupons attached to them
 4 must be signed by the members of the board and issued under
 5 the state seal;
 6 (b) The bonds and coupons may be executed with
 7 facsimile signatures and seal in the manner and subject to
 8 the limitations prescribed by law;
 9 (4) The state treasurer shall keep a record of all
 10 bonds issued and sold;
 11 (5) The board may employ a fiscal agent to assist in
 12 the performance of its duties under this act;
 13 NEW SECTION Section 7. Protecting rights of
 14 bondholders. (1) The resolution pursuant to which the bonds
 15 are issued may contain provisions providing for:
 16 (a) the protection and enforcement of the rights and
 17 remedies of bondholders as are reasonable property and
 18 lawful; the provisions may be those customary in resolutions
 19 or indentures securing state bonds or debentures;
 20 (b) the custody, safeguarding, and application of all
 21 money;
 22 (2) Any bondholder or party in interest subject to the
 23 applicable resolution may sue to enforce the performance of
 24 the bond provisions of this act;
 25 NEW SECTION Section 8. Refunding obligations. bond

1 applicable terms and provisions of 17-5-805.
 2 NEW SECTION: Section 9. Liability of board members
 3 and state employees: The members of the board and officers
 4 and employees of the department and any other state agency
 5 are not personally liable or accountable by reason of the
 6 issuance of any bond or on any bond.

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

8 "17-7-502. Statutory appropriations -- definition --
 9 requisites for validity. (1) A statutory appropriation is an
 10 appropriation made by permanent law that authorizes spending
 11 by a state agency without the need for a biennial
 12 legislative appropriation or budget amendment.
 13 (2) Except as provided in subsection (4), to be
 14 effective, a statutory appropriation must comply with both
 15 of the following provisions:

- 16 (a) The law containing the statutory authority must be
- 17 listed in subsection (3).
- 18 (b) The law or portion of the law making a statutory
- 19 appropriation must specifically state that a statutory
- 20 appropriation is made as provided in this section.
- 21 (3) The following laws are the only laws containing
- 22 statutory appropriations:
- 23 (a) 2-9-202;
- 24 (b) 2-17-105;
- 25 (c) 2-18-812;

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

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

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

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

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

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

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

16 (4) There is a statutory appropriation to pay the
 17 principal, interest, premiums, and costs of issuing, paying,
 18 and securing all bonds, notes, or other obligations, as due,
 19 that have been authorized and issued pursuant to the laws of
 20 Montana. Agencies that have entered into agreements
 21 authorized by the laws of Montana to pay the state
 22 treasurer, for deposit in accordance with 17-2-101 through
 23 17-2-107, as determined by the state treasurer, an amount
 24 sufficient to pay the principal and interest as due on the
 25 bonds or notes have statutory appropriation authority for

1 such payments."
2 NEW SECTION. Section 6. Repealer. Section 39-71-2326,
3 MCA, is repealed.
4 NEW SECTION. Section 7. Extension of authority. Any
5 existing authority of the department of labor and industry
6 to make rules on the subject of the provisions of this act
7 is extended to the provisions of this act.
8 NEW SECTION. SECTION 8. PRIOR LAW SUPERSEDED. [THIS
9 ACT] HEREBY SUPERSEDES THE PROVISIONS OF 1-2-113 AS IT MAY
10 APPLY TO [THIS ACT].
11 NEW SECTION. SECTION 9. SEVERABILITY. IF A PART OF
12 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
13 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
14 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
15 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
16 THE INVALID APPLICATIONS.
17 NEW SECTION. Section 10. Effective date --
18 TERMINATION. This act is effective on passage and approval
19 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

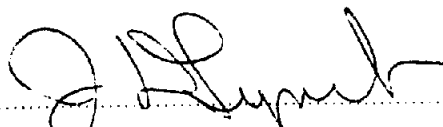
Insert: "NEW SECTION. Section 8. Prior law
superseded. [This act] hereby supersedes the
provisions of 1-2-113 as it may apply to [this act]."

Renumber: subsequent sections

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~


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

4/9/87
5:05
JJS

