

1 Senate BILL NO. 7
2 INTRODUCED BY Sorub
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PROJECTED
5 JULY 1, 1990, PREMIUM RATE INCREASE BY INCREASING THE
6 WORKERS' COMPENSATION EMPLOYER'S PAYROLL TAX FOR THE PERIOD
7 FROM JULY 1, 1990, THROUGH JUNE 30, 1991, AND BY PROVIDING
8 ANOTHER SUPPLEMENTAL FUNDING SOURCE FOR THE STATE
9 COMPENSATION MUTUAL INSURANCE FUND THROUGH AN EMPLOYEE'S
10 WAGE TAX; TO PROVIDE FOR COLLECTION OF THE WAGE TAX;
11 AMENDING SECTIONS 39-71-2501 THROUGH 39-71-2504, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY
13 DATE, AND A TERMINATION DATE."
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 Section 1. Section 39-71-2501, MCA, is amended to read:
17 "39-71-2501. (Temporary) Definitions. As used in this
18 part, the following definitions apply:
19 (1) "Department" means the department of labor and
20 industry provided for in 2-15-1701.
21 (2) "Employee" has the meaning set forth in 39-71-118.
22 {2}{3} "Employer" has the meaning set forth in
23 39-71-117.
24 {3}{4} "Payroll" means the payroll of an employer for
25 each of the calendar quarters ending March 31, June 30,

1 September 30, and December 31, for all employments covered
2 under 39-71-401.
3 {4}{5} "State fund" means the state compensation mutual
4 insurance fund.
5 {5}{6} "Tax" means the workers' compensation payroll
6 tax provided for in 39-71-2503.
7 {6}{7} "Tax account" means the workers' compensation
8 tax account created by 39-71-2504.
9 {8} "Wages" has the meaning set forth in 39-71-123.
10 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"
11 Section 2. Section 39-71-2502, MCA, is amended to read:
12 "39-71-2502. (Temporary) Findings and purpose. (1)
13 Based on current liabilities and actuarial analysis, an
14 unfunded liability presently exists in the state fund and is
15 projected to increase. While legislative action is required
16 to correct the causes of the unfunded liability, those
17 actions will not provide sufficient funds to permit the
18 state fund to pay its existing liabilities and obligations
19 in a timely manner from premium and investment income
20 available to the state fund. Therefore, it is necessary to
21 provide a--source other sources of funding for the unfunded
22 liability in addition to premium and investment income.
23 (2) The police power of the state extends to all great
24 public needs. The state, in the exercise of its police
25 power, has determined that it is greatly and immediately

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

15 (3) The purpose of this part is to provide a
 16 supplemental source sources of financing for the unfunded
 17 liability. (Terminates June 30, 1991--sec. 10, Ch. 664, L.
 18 1987.)"

19 Section 3. Section 39-71-2503, MCA, is amended to read:

20 "39-71-2503. (Temporary) Workers' compensation payroll
 21 tax and wage tax -- penalty. (1) (a) There is imposed on
 22 each employer a workers' compensation payroll tax in an
 23 amount equal to ~~0.3%~~ 0.425% of the employer's payroll in the
 24 preceding calendar quarter for all employments covered under
 25 39-71-401. There is imposed on each employee a workers'

1 compensation wage tax in an amount equal to 0.125% of the
 2 employee's wages in the preceding calendar quarter for all
 3 employments covered under 39-71-401. For the purpose of this
 4 tax, a sole proprietor shall pay only the employer's payroll
 5 tax on his own employment. This-payroll-tax These taxes must
 6 be used to reduce the unfunded liability in the state fund.
 7 The increase in the employer's payroll tax and the
 8 assessment of the employee's wage tax that commence with the
 9 calendar quarter ending September 30, 1990, must be used to
 10 reduce the projected July 1, 1990, premium rate increase.

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

14 (c) The tax ~~taxes~~ must be paid to and collected by the
 15 department. The department shall prepare appropriate returns
 16 to be filed by each employer or insurer with the payment of
 17 the tax ~~taxes~~. Each employer shall withhold from an
 18 employee's wages the wage tax provided for in subsection
 19 (1)(a) and pay it to the department.

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

24 (e) Taxes not paid when due bear interest at the rate
 25 of 1% a month. The employer shall also pay a penalty equal

1 to 10% of the amount of the delinquent payroll tax.

2 (2) All collections of the tax taxes are appropriated
3 to and must be deposited as received in the tax account. The
4 ~~tax--is~~ taxes are in addition to any other tax or fee
5 assessed against employers and employees subject to the tax
6 taxes.

7 (3) Sections 15-35-112 through 15-35-114, 15-35-121,
8 and 15-35-122 regarding deficiency assessments, credits for
9 overpayment, statute of limitations, penalties, and
10 department rulemaking authority apply to the tax taxes, to
11 employers and employees, and to the department. (Terminates
12 June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

13 Section 4. Section 39-71-2504, MCA, is amended to read:

14 "39-71-2504. (Temporary) Workers' compensation tax
15 account. (1) There is a workers' compensation tax account in
16 the state special revenue fund.

17 (2) All collections of the tax payroll and wage taxes,
18 interest and penalties on the tax taxes, and revenue
19 appropriated to the account under section 11, Chapter 9,
20 Special Laws of June 1989, must be deposited in the account
21 and are statutorily appropriated, as provided in 17-7-502,
22 to the department to be used to reduce the unfunded
23 liability in the state fund. (Terminates June 30, 1991--sec.
24 10, Ch. 664, L. 1987.)"

25 NEW SECTION. Section 5. Construction of law. Nothing

1 in [this act] may be construed to conflict with the
2 provisions of 39-71-406.

3 NEW SECTION. Section 6. Severability. If a part of
4 [this act] is invalid, all valid parts that are severable
5 from the invalid part remain in effect. If a part of [this
6 act] is invalid in one or more of its applications, the part
7 remains in effect in all valid applications that are
8 severable from the invalid applications.

9 NEW SECTION. Section 7. Applicability. The employer's
10 payroll tax and the employee's wage tax imposed by [section
11 3] commence with the calendar quarter ending September 30,
12 1990.

13 NEW SECTION. Section 8. Effective date. [This act] is
14 effective on passage and approval.

15 NEW SECTION. Section 9. Termination. The employee's
16 wage tax imposed by [section 3] terminates with the calendar
17 quarter ending June 30, 1991.

18 -End-