

John
~~_____~~ ORR

SENATE BILL NO. 110

INTRODUCED BY ~~_____~~ Burnett

~~_____~~ *Brainard* ~~_____~~ *Tom NELSON*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE UNINSURED AND UNDERINSURED EMPLOYER PROVISIONS OF THE WORKERS' COMPENSATION ACT; PROVIDING FOR TRANSFER OF THE SURPLUS FUNDS IN THE UNINSURED AND UNDERINSURED EMPLOYERS' FUNDS; AMENDING SECTIONS 17-7-502 AND 39-71-2905, MCA; REPEALING SECTIONS 39-71-501, 39-71-502, 39-71-503, 39-71-504, 39-71-505, 39-71-506, 39-71-507, 39-71-508, 39-71-509, 39-71-510, 39-71-511, 39-71-515, 39-71-516, 39-71-517, 39-71-518, 39-71-519, 39-71-520, 39-71-531, 39-71-532, 39-71-533, AND 39-71-534, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. 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: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; ~~39-71-503~~; 39-71-907; 39-71-2321; 39-71-2504;



1 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
2 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416;
3 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
4 90-7-220; 90-9-306; and 90-14-107.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
8 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
9 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
10 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
11 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
12 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
13 July 1, 1995.)"

14

15 **Section 2.** Section 39-71-2905, MCA, is amended to read:

16 **"39-71-2905. Petition to workers' compensation judge.** A claimant or an insurer who has a dispute
17 concerning any benefits under chapter 71 of this title may petition the workers' compensation judge for
18 a determination of the dispute after satisfying dispute resolution requirements otherwise provided in this
19 chapter. The judge, after a hearing, shall make a determination of the dispute in accordance with the law
20 as set forth in chapter 71 of this title. If the dispute relates to benefits due a claimant under chapter 71,
21 the judge shall fix and determine any benefits to be paid and specify the manner of payment. After parties
22 have satisfied dispute resolution requirements provided elsewhere in this chapter, the workers'
23 compensation judge has exclusive jurisdiction to make determinations concerning disputes under chapter
24 71, except as provided in 39-71-317 and ~~39-71-516~~. The penalties and assessments allowed against an
25 insurer under chapter 71 are the exclusive penalties and assessments that can be assessed by the workers'
26 compensation judge against an insurer for disputes arising under chapter 71."

27

28 **NEW SECTION. Section 3. Repealer.** Sections 39-71-501, 39-71-502, 39-71-503, 39-71-504,
29 39-71-505, 39-71-506, 39-71-507, 39-71-508, 39-71-509, 39-71-510, 39-71-511, 39-71-515,
30 39-71-516, 39-71-517, 39-71-518, 39-71-519, 39-71-520, 39-71-531, 39-71-532, 39-71-533, and

1 39-71-534, MCA, are repealed.

2

3 NEW SECTION. **Section 4. Transfer of funds.** Any surplus funds remaining in the uninsured or
4 underinsured employers' funds on [the effective date of this act] must be transferred to the general fund.

5

6 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that
7 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
8 act].

9

10 NEW SECTION. **Section 6. Effective date -- applicability.** [This act] is effective July 1, 1995, and
11 applies to penalties incurred or claims filed on or after [the effective date of this act].

12

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0110, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating the uninsured and underinsured employer provisions of the workers' compensation act; providing for transfer of the surplus funds in the uninsured and underinsured employers' funds.

ASSUMPTIONS:

Department of Labor and Industry:

1. Current UEF and UIEF staff who investigate, audit, assess penalties on employers, collect penalties and process UEF claims for injuries occurring after July 1, 1995, or investigate new under-insurance cases will not be required past July 1, 1995.
2. An existing 1.00 FTE UEF claims examiner (G14) and 0.50 UEF clerical staff (G8) will be required through the biennium in order to adjust claims, and pay benefits on claims, for which liability has been accepted prior to July 1, 1995. The staff will also be dealing with pre-July 1, 1995, claims, liabilities and associated legal issues. These costs will continue to be funded by UEF.
3. There will be no UEF staff to investigate, audit, or penalize employers and seek reimbursement for penalties and claims costs after July 1, 1995. Because compliance activities would cease on July 1, 1995, any investigations or audits in process at that time would remain unresolved.
4. UEF has already accepted liability for claims which exceed the available funds. Therefore no transfer of funds is anticipated to the General Fund.
5. Employees may be forced to seek support from other public sources, such as Medicaid and welfare.
6. The venue for this issue will be shifted from the Department of Labor and Industry to the court system.

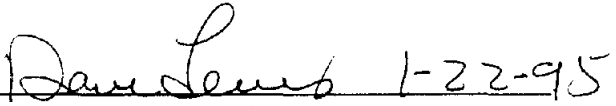
State Compensation Insurance Fund:

7. Penalties on employers for failure to provide workers' compensation coverage will be eliminated.
8. Penalties on employers for under-insuring will be eliminated.
9. Without detection and enforcement deterrents, the potential exists for more employers to operate without workers' compensation coverage.
10. As a consequence of assumption number 3, the State Fund may be liable for the claims of subcontractors' employees should the subcontractors fail to provide workers' compensation insurance or under-insure, if the State Fund is the insurer of the prime contractor, 39-71-405, MCA.
11. As a result of assumptions #9 and #10, rates potentially would need to be increased to offset increased liabilities which might occur under assumption #10.

Judiciary:

12. This act may increase filings in district court. Costs unknown.
13. This act may increase workloads of county attorneys. Costs unknown.

(continued)


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

TOM KEATING, PRIMARY SPONSOR DATE

Fiscal Note for SB0110, as introduced

SB 110

FISCAL IMPACT:

Expenditures:

Dept of Labor and Industry

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Centralized Services Program (Pgm 03)		
FTE, grade 9	(.25)	(.50)
Salaries/Ben (1000)	<u>(4,659)</u>	<u>(9,318)</u>
Total	(4,659)	(9,318)
Employment Relations Division (Pgm 04)		
FTE	(10.5)	(10.5)
Salaries/Ben(1000)	(293,954)	(295,828)
Operating (2000)	<u>(94,856)</u>	<u>(90,796)</u>
Total	(388,810)	(386,624)
Legal Services Program (Pgm 06)		
FTE		(1.5)
Salaries/Ben (1000)		(63,150)
Operating (2000)		<u>(18,338)</u>
Total		(81,488)
Total for Department	(393,469)	(477,430)

Funding:

WC Assessment (02)	(118,972)	(200,788)
Uninsured Employers' Fund (06)	(269,838)	(267,324)
Proprietary (Central Services) (06)	<u>(4,659)</u>	<u>(9,318)</u>
Total	(393,469)	(477,430)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Not known.