

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

SB BILL NO. 185

INTRODUCED BY

*Spuch*  
*Spuch* *Merahan* *Zulic*  
*Carlmit Shea*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING AS OF JANUARY 1, 1998, THE WORKERS' COMPENSATION OLD FUND LIABILITY TAX ON EMPLOYERS AND EMPLOYEES; PROVIDING FOR A TRANSFER OF THE FUND BALANCE IN THE WORKERS' COMPENSATION BOND REPAYMENT FUND TO THE STATE FUND; AMENDING SECTIONS 15-30-207, 17-7-502, 39-71-406, AND 39-71-2321, MCA; REPEALING SECTIONS 39-71-2351, 39-71-2352, 39-71-2354, 39-71-2355, 39-71-2501, 39-71-2502, 39-71-2503, 39-71-2504, 39-71-2505, AND 39-71-2506, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

**Section 1.** Section 15-30-207, MCA, is amended to read:

**"15-30-207. Annual statement by employer.** (1) ~~Every~~ Each employer shall, on or before February 28 in each year, file with the department a wage and tax statement for each employee in ~~such~~ the form and summarizing ~~such~~ the information as that the department requires, including the total wages paid to the employee during the preceding calendar year or any part ~~thereof~~ of the preceding calendar year and showing the total amount of ~~the~~ federal income tax deducted and withheld from ~~such~~ wages and the total amount of ~~the~~ tax deducted and withheld ~~therefrom~~ under the provisions of 15-30-201 through 15-30-209 ~~and 39-71-2503~~.

(2) The annual statement filed by an employer with respect to the wage payments reported constitutes full compliance with the requirements of 15-30-301 relating to the duties of information agents, and ~~no~~ additional information return is not required with respect to ~~such~~ the wage payments.

(3) In addition to any other penalty provided by law, the failure of an employer to furnish a statement, as required by subsection (1), subjects the employer to a penalty of \$5 for each failure, ~~provided that; however,~~ the minimum penalty for failure to file the statements required on or before February 28 of each year ~~shall be~~ is \$50. This penalty may be abated by the department upon a showing of good cause by the employer. The penalty may be collected in the same manner as are other tax debts."



1           **Section 2.** Section 17-7-502, MCA, is amended to read:

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency  
4 without the need for a biennial legislative appropriation or budget amendment.

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

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

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

10           (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;  
11 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706;  
12 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
13 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;  
14 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;  
15 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;  
16 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;  
17 39-71-907; 39-71-2321; ~~39-71-2504~~; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;  
18 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;  
19 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;  
20 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

21           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
22 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
23 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
24 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as  
25 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the  
26 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.  
27 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for  
28 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates  
29 July 1, 2001.)"

30

1           **Section 3.** Section 39-71-406, MCA, is amended to read:

2           **"39-71-406. Deduction from wages of any part of premium a misdemeanor.** It is unlawful for the  
3 employer to deduct or obtain any part of any premium required to be paid by this chapter from the wages  
4 or earnings of the employer's workers, and the making or attempt to make ~~any such~~ the deduction is a  
5 misdemeanor. ~~The workers' compensation old fund liability tax under 39-71-2503 is not a premium for the~~  
6 ~~purpose of this section."~~

7

8           **Section 4.** Section 39-71-2321, MCA, is amended to read:

9           **"39-71-2321. What to be deposited in state fund.** (1) ~~(a)~~ All premiums, penalties, recoveries by  
10 subrogation, interest earned upon money belonging to the state fund, and securities acquired by or through  
11 use of money must be deposited in the state fund. ~~They~~ The money must be separated into two accounts  
12 based upon whether ~~they relate~~ it relates to claims for injuries resulting from accidents that occurred before  
13 July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

14           ~~(b)(2)~~ All funds deposited in the state fund are statutorily appropriated as provided in 17-7-502.

15           ~~(2) The proceeds of bonds issued and loans given to the state fund under 39-71-2354 and~~  
16 ~~39-71-2355 must be deposited in the account for claims for injuries resulting from accidents that occurred~~  
17 ~~before July 1, 1990."~~

18

19           NEW SECTION.   **Section 5. Repealer.** Sections 39-71-2351, 39-71-2352, 39-71-2354,  
20 39-71-2355, 39-71-2501, 39-71-2502, 39-71-2503, 39-71-2504, 39-71-2505, and 39-71-2506, MCA,  
21 are repealed.

22

23           NEW SECTION.   **Section 6. Transfer of funds.** Any balance remaining in the workers'  
24 compensation bond repayment fund as of June 30, 1997, must be transferred on [the effective date of this  
25 act] to the accounts established for the state fund in 39-71-2321 to pay claims for injuries resulting from  
26 accidents that occurred before July 1, 1990, or to pay claims for injuries resulting from accidents that occur  
27 on or after that date.

28

29           NEW SECTION.   **Section 7. Effective date.** [This act] is effective January 1, 1998.

30

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0185, as introduced

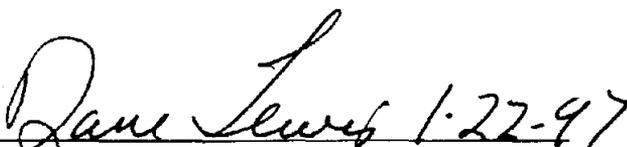
DESCRIPTION OF PROPOSED LEGISLATION:

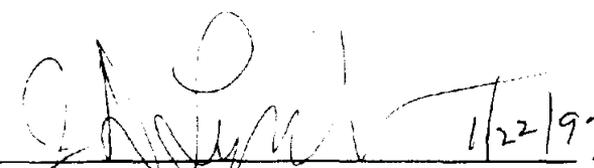
An act eliminating as of January 1, 1998, the workers' compensation Old Fund Liability Tax (OFLT) on employers and employees; providing for a transfer of the fund balance in the workers' compensation bond repayment fund to the State Fund.

ASSUMPTIONS:

1. Under current law there is imposed: on each employer an Old Fund Liability Tax (OFLT) equal to 0.5 percent of the employer's payroll in the preceding quarter; an employee OFLT equal to 0.2 percent of the employee's wages in the preceding quarter; an OFLT of 0.2 percent on the profit of each separate business of a sole proprietor and on the distributive share of ordinary income of each subchapter S corporation shareholder, partner of a partnership, or member or manager of a limited liability company.
2. Current law provides for the expiration of the Payroll Tax/OFLT at the end of fiscal year 2007.
3. Current law OFLT revenues are projected to be \$48,427,000 during fiscal year 1997, \$49,857,000 during fiscal year 1998, and \$43,476,000 during fiscal year 1999.
4. Contingency provisions of current law reduce the OFLT rates for fiscal year 1999 to 0.45 percent for employers and 0.15 percent for employees and self-employed persons; for 2000 to 0.4 percent for employers and 0.1 percent for employees and self-employed persons; and for fiscal year 2001 and thereafter to 0.28 percent for employers and 0.0 percent for employees and self-employed persons.
5. State Fund staff estimates that OFLT rates under current law can be eliminated at the end of fiscal year 2001 with enough tax receipts set aside to fully fund Old Fund claims.
6. Current law will provide \$198.2 million in OFLT collections prior to projected termination after fiscal year 2001.
7. Payroll base growth is assumed to be 3.0 percent per year for employers and employees and 2.5 percent per year for self-employed reporters.
8. This proposal repeals the statute that separates and provides funding for the claims before July 1, 1990, and the claims on or after that date.
9. This proposal eliminates, effective January 1, 1998, the separate source of funding - Old Fund Liability Tax collections - for claims before July 1, 1990.
10. Two percent of OFLT is collected in the second half of each fiscal year from annual filers; 18 percent is collected from monthly filers; and 80 percent is collected from weekly filers. This collection pattern results in an OFLT revenue reduction of \$22,945,000 in fiscal 1998; revenues are reduced by \$43,477,000 in fiscal 1999.
11. This proposal continues the requirement for State Fund to separate monies into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.
12. During the course of fiscal year 1999 the account established under the State Fund will no longer have funds available to pay for claims incurred prior to July 1, 1990.

(Continued)

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

  
J. D. LYNCH, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0185, as introduced

SB 185

Current Law OFLT Collections

	Employer Pmt	Employee Pmt	Self Emp Pmt	Total	Working Capital Balance
1997	31,293,000	12,529,000	4,605,000	48,427,000	21,288,000
1998	32,232,000	12,905,000	4,720,000	49,857,000	50,850,000
1999	29,879,000	9,969,000	3,628,000	43,476,000	77,167,000
2000	27,356,000	6,846,000	2,479,000	36,681,000	99,346,000
2001	19,724,000	0	0	19,724,000	106,710,000
2002	0	0	0	0	96,129,000
2003	0	0	0	0	86,334,000
2004	0	0	0	0	77,314,000
2005	0	0	0	0	69,045,000
2006	0	0	0	0	61,491,000
2007	0	0	0	0	54,614,000
TOTAL	140,484,000	42,249,000	15,432,000	198,165,000	

Proposed Law OFLT Collections

	Employer Pmt	Employee Pmt	Self Emp Pmt	Total	Working Capital Balance
1997	31,293,000	12,529,000	4,605,000	48,427,000	21,288,000
1998	17,398,000	6,966,000	2,548,000	26,912,000	27,114,000
TOTAL	48,691,000	19,495,000	7,153,000	75,399,000	

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Revenues:</u>	<u>Difference</u>	<u>Difference</u>
OFLT Collections	(22,945,000)	(43,476,000)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Old Fund, based on State Fund estimates, will have a negative total fund equity of 198.7 million as of July 1, 1997.

This proposal will have, based on State Fund staff estimates, an unfunded balance of \$160.7 million in the workers' compensation bond repayment fund in 2022 when most of the Old Fund losses will be paid off.

During the course of fiscal 1999 the account established under the State Fund will no longer have funds available to pay for claims incurred prior to July 1, 1990.

TECHNICAL NOTES:

Section 6 of the bill provides for the balance in the workers' compensation bond repayment account as of 6/30/97 to be transferred to the State Fund on the effective date of the act. Section 7 provides the effective date of the bill to be 1/1/98.

This proposal will discontinue administrative expenses incurred by the Department of Revenue (DoR) for tax collection activities. Even though this bill terminates OFLT effective January 1, 1998, administrative functions related to collecting this tax will continue throughout most of calendar year 1998. Accelerated filers will file reports the first two weeks of 1998; monthly filers will file reports in January, 1998; and 1997 annual filers will file at the end of February, 1998. Self-employed individuals will file PIT returns reporting 1997 information through the extension filing date of October 15, 1998. Administrative savings will begin to accrue in the second half of FY1999, and even then there will remain unresolved DAR balances and audit issues. Based on these continued administrative functions the Department of Revenue estimates that administrative costs can be reduced by \$191,000 in fiscal 1999.