

HOUSE BILL NO. 732

INTRODUCED BY D. HARVEY

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE REIMBURSEMENT OF WORKERS' COMPENSATION PREMIUMS FOR CERTAIN WORK-BASED LEARNING OPPORTUNITIES UNDER CERTAIN CONDITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR PAYMENT OUT OF THE WORKERS' COMPENSATION ADMINISTRATION FUND; PROVIDING AN APPROPRIATION FROM THE EMPLOYMENT SECURITY ACCOUNT FOR ADMINISTRATION; AMENDING SECTIONS 39-51-409 AND 39-71-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. State to reimburse certain premium costs for learning programs --

rulemaking. (1) (a) Subject to subsection (1)(b), the department of labor and industry shall reimburse a private employer who has hired a student enrolled in a high-quality work-based learning opportunity for the added costs of the employer's workers' compensation premium because of employing that student.

(b) The reimbursement is subject to available funds and an affirmation by the employer or another indication that the employer adheres to safe working conditions. The department may use funds in the workers' compensation administration fund provided for in 39-71-201 to reimburse the premiums under subsection (1)(a).

(2) The rules must provide the parameters of the program, the application process, and other components necessary to determine premium payments. The rules must describe the attributes of qualified high-quality work-based learning opportunities and provide for a declaration made under penalty of perjury by the employer of the student that the requested reimbursement is only for the increased premium costs due to the student employment.

(3) This section does not apply to a private secondary or postsecondary institution that employs students in work-study programs.

(4) For the purposes of this section, a "high-quality work-based learning opportunity":

- (a) is a term-limited educational program registered with the department; and
- (b) uses on-the-job training to develop marketable skills.

(5) The department may adopt rules to implement this section.



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2 **Section 2.** Section 39-51-409, MCA, is amended to read:

3 **"39-51-409. Employment security account.** (1) There is an account in the state special revenue fund
4 called the employment security account.

5 (2) Money deposited in the employment security account may be appropriated to the department for
6 payment of:

7 (a) unemployment insurance benefits;

8 (b) expenses incurred in the administration of the unemployment insurance program;

9 (c) expenses incurred in collecting money deposited in the account;

10 (d) expenses incurred for the employment offices established in 39-51-307, including expenses for
11 providing services to the business community;

12 (e) expenses incurred for the apprenticeship and training program and for the administration of [section
13 1];

14 (f) expenses for displaced homemaker programs provided for under 39-7-305;

15 (g) expenses for department research and analysis functions that provide employment, wage, and
16 economic data;

17 (h) expenses for department functions pertaining to wage and hour laws, prevailing wages, and collective
18 bargaining; and

19 (i) principal, interest, and redemption premium on employment security revenue bonds authorized in
20 section 5, Chapter 435, Laws of 2009.

21 (3) Except as provided in sections 6 and 12, Chapter 435, Laws of 2009, the department may transfer
22 funds from the employment security account to the unemployment insurance fund account provided for in
23 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the
24 account below the level appropriated by the legislature to provide for the employment services programs identified
25 in subsection (2).

26 (4) The department may transfer appropriation authority in employment services programs between the
27 federal special revenue and the state special revenue fund types."

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29 **Section 3.** Section 39-71-201, MCA, is amended to read:

30 **"39-71-201. Workers' compensation administration fund.** (1) A workers' compensation administration

1 fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers'
2 Compensation Act, with the exception of the certification of independent contractors provided for in Title 39,
3 chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund
4 provided for in 39-71-503. The department may use the workers' compensation administration fund to reimburse
5 premiums for high-quality work-based learning programs, as provided in [section 1]. The department shall collect
6 and deposit in the state treasury to the credit of the workers' compensation administration fund:

7 (a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, 39-71-307,
8 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

9 (b) all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this
10 section.

11 (2) For the purposes of this section, paid losses include the following benefits paid during the preceding
12 calendar year for injuries covered by the Workers' Compensation Act without regard to the application of any
13 deductible whether the employer or the insurer pays the losses:

14 (a) total compensation benefits paid; and

15 (b) except for medical benefits in excess of \$200,000 for each occurrence that are exempt from
16 assessment, total medical benefits paid for medical treatment rendered to an injured worker, including hospital
17 treatment and prescription drugs.

18 (3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No.
19 3, the state fund, shall file annually on March 1 in the form and containing the information required by the
20 department a report of paid losses pursuant to subsection (2).

21 (4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation
22 plan No. 3, the state fund, shall pay its proportionate share determined by the paid losses in the preceding
23 calendar year of all costs of administering and regulating the Workers' Compensation Act, with the exception of
24 the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund
25 provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition,
26 compensation plan No. 3, the state fund, shall pay a proportionate share of these costs based upon paid losses
27 for claims arising before July 1, 1990.

28 (5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund
29 administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding
30 calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes

1 the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the
2 purposes of this section.

3 (b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund
4 administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding
5 calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled
6 under compensation plan No. 1.

7 (c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and
8 (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of
9 administrative and regulatory costs. The assessment provided for by this subsection (5) must be paid by the
10 employer in:

11 (i) one installment due on July 1; or

12 (ii) two equal installments due on July 1 and December 31 of each year.

13 (d) If an employer fails to timely pay to the department the assessment under this section, the
14 department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount
15 at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers'
16 compensation administration fund and may be used to pay the reimbursement of premiums required under
17 [section 1].

18 (6) (a) Compensation plan No. 3, the state fund, shall pay an assessment to fund administrative and
19 regulatory costs attributable to claims arising before July 1, 1990. The assessment may be up to 4% of the paid
20 losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the
21 state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory
22 costs that is attributable to claims arising before July 1, 1990.

23 (b) The assessment must be paid in:

24 (i) one installment due on July 1; or

25 (ii) two equal installments due on July 1 and December 31 of each year.

26 (c) If the state fund fails to timely pay to the department the assessment under this section, the
27 department may impose on the state fund an administrative fine of \$500 plus interest on the delinquent amount
28 at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers'
29 compensation administration fund.

30 (7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay

1 a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by
2 each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium
3 surcharge must be stated as a separate cost on an insured employer's policy or on a separate document
4 submitted to the insured employer and must be identified as "workers' compensation regulatory assessment
5 surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including
6 computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers'
7 compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute
8 an element of loss for the purpose of establishing rates for workers' compensation insurance but, for the purpose
9 of collection, must be treated as a separate cost imposed upon insured employers.

10 (b) The amount to be funded by the premium surcharge may be up to 4% of the paid losses paid in the
11 preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to 4% of paid losses for claims
12 arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by
13 subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled
14 under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge
15 rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually
16 by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the
17 premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

18 (c) On or before April 30 of each year, the department, in consultation with the advisory organization
19 designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium
20 surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

21 (d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each
22 insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay
23 to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter
24 in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge
25 collected under this section, the department may impose on the insurer an administrative fine of \$500 plus
26 interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be
27 deposited in the workers' compensation administration fund and may be used to pay the reimbursement of
28 premiums required under [section 1].

29 (e) If an employer fails to remit to an insurer the total amount due for the premium and premium
30 surcharge, the amount received by the insurer must be applied to the premium surcharge first and the remaining

1 amount applied to the premium due.

2 (f) The amount actually collected as a premium surcharge in a given year must be compared to the
3 assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from
4 the amount to be collected as a premium surcharge in the following year. The amount collected that is less than
5 the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

6 (8) By July 1, an insurer under compensation plan No. 2 that paid benefits in the preceding calendar year
7 but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to 4%
8 of paid losses paid in the preceding calendar year. The department shall determine and notify the insurer by April
9 30 of each year of the amount that is due by July 1.

10 (9) An employer that makes a first-time application for permission to enroll under compensation plan No.
11 1 shall pay an assessment of \$500 within 15 days of being granted permission by the department to enroll under
12 compensation plan No. 1.

13 (10) The department shall deposit all funds received pursuant to this section in the state treasury, as
14 provided in this section.

15 (11) The administration fund must be debited with expenses incurred by the department in the general
16 administration of the provisions of this chapter, including the salaries of its members, officers, and employees and
17 the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503,
18 incurred while on the business of the department either within or without the state. Reimbursement of premiums
19 required under [section 1] by the workers' compensation administration fund also is a debit on the fund.

20 (12) Disbursements from the administration fund must be made after being approved by the department
21 upon claim for disbursement.

22 (13) The department may assess and collect the workers' compensation regulatory assessment
23 surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage
24 requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this
25 subsection must be deposited in the workers' compensation administration fund."

26
27 **NEW SECTION. Section 4. Appropriation.** There is appropriated \$15,000 from the employment
28 security account provided for in 39-51-409 to the department of labor and industry for use in administering the
29 program in [section 1].

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1 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
2 integral part of Title 39, and the provisions of Title 39 apply to [section 1].

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4 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2019.

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