

## 1 SENATE BILL NO. 293

2 INTRODUCED BY J. KEANE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LEGISLATIVE FINDING THAT ALLOWS A  
5 TRANSFER TO THE OLD FUND ACCOUNT FROM THE NEW FUND ACCOUNT OF THE STATE  
6 COMPENSATION INSURANCE FUND; PROVIDING A TRANSFER OF UP TO \$20 MILLION; AND PROVIDING  
7 AN IMMEDIATE EFFECTIVE DATE."

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9 WHEREAS, in the 21 years following separation of the state compensation insurance fund into the Old  
10 Fund and the New Fund, numerous transfers have occurred at the direction of the Legislature between the two  
11 funds and between those funds and the general fund, including transfers from the Old Fund to the New Fund of  
12 \$6,765,027 in fiscal year 2001 and \$7,407,512 in fiscal year 2002; and

13 WHEREAS, Montana State Fund, as required through enactment of Senate Bill No. 360 in 2003, includes  
14 in its contracts a notice that "premiums and other money paid to the Montana State Fund, all property and  
15 securities acquired through the use of money belonging to the Montana State Fund, and all interest and dividends  
16 earned upon money belonging to the Montana State Fund are the sole property of the Montana State Fund and  
17 must be used exclusively for the operations and obligations of the Montana State Fund" and the notice states that  
18 those funds may not be used for "any other purpose and may not be transferred by the legislature to other funds  
19 or used for other programs"; and

20 WHEREAS, certain interest income accumulated on premiums before the limiting language was included  
21 in contracts and therefore is, as with all workers' compensation provisions, subject to the laws in effect at the time.

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

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25 NEW SECTION. **Section 1. Findings -- transfer.** (1) The legislature finds that a transfer of \$20 million  
26 or the present value of interest earned on premiums between July 1, 1993, and July 1, 2003, whichever is less,  
27 from what traditionally is called the new fund to the old fund is not in conflict with the provisions of 39-71-2320  
28 prohibiting use for any other purpose or transfer to other funds because:

29 (a) the state compensation insurance fund established under 39-71-2313 consists of the old fund  
30 account and the new fund account. The liability for the old fund account, consisting of claims for injuries occurring

1 before July 1, 1990, is separate from the liability for claims on injuries occurring on or after July 1, 1990, which  
2 are paid out of the new fund account, as provided in 39-71-2351. However, both accounts are a component of  
3 the state compensation insurance fund or the state fund.

4 (b) pursuant to 39-71-2320, state fund money includes all interest and dividends earned on money  
5 belonging to the state fund. Interest and dividends earned are distinguished in 39-71-2320 from premiums, which  
6 consist of the money collected by the state fund for claims for injuries occurring on or after July 1, 1990. This  
7 money collected may not be used for any other purpose and may not be transferred by the legislature to other  
8 funds or used for other programs.

9 (c) the money to be transferred, as provided in subsection (4), does not consist of premiums and is  
10 staying in the same fund but must be transferred between accounts in that fund.

11 (2) Based on the distinction between money collected in premiums and money accrued from interest and  
12 dividends on those premiums, the legislature directs that the transfer required in this section be based on the  
13 interest on premiums collected prior to July 1, 2003. The intent is to minimize concerns about state fund money  
14 referenced in contracts issued after May 9, 2003, the effective date of legislation requiring that contracts issued  
15 after that date reflect that the money described in 39-71-2320 is restricted.

16 (3) The legislature also finds that under 39-71-2319 the state fund shall assume liability for all  
17 outstanding claims and indebtedness of the previously existing state fund. Because that statute was enacted in  
18 1989, a year before the creation of the current state fund's predecessor, the liability therefore means the old  
19 fund's liabilities.

20 (4) The state compensation insurance fund shall transfer \$20 million or the present value of interest and  
21 dividends earned on premiums between July 1, 1993, and July 1, 2003, whichever is less, by July 1, 2011, from  
22 the account in 39-71-2321 used to pay for claims and administrative expenses for accidents occurring on or after  
23 July 1, 1990, to the account in 39-71-2321 used to pay for claims and administrative expenses for accidents  
24 occurring before July 1, 1990.

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26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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