

1 Fund developing compensation and incentive plans and premium and other performance measures similar to
2 those of private companies; and

3 WHEREAS, national surveys indicate Montana has a greater frequency rate than other states for paid-out
4 benefits to injured workers, yet average benefits in 2004 ranged from last among the 43 jurisdictions surveyed
5 for permanent total injuries to 24th for permanent partial injuries, resulting in a range that underscores concerns
6 about the frequency of claims and the period in which claims are left "open" or unsettled, which reflects a need
7 for greater premiums to ensure reserves to cover open-ended cases, ever-increasing medical costs, and possible
8 impacts from court cases.

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10 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
11 STATE OF MONTANA:

12 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
13 section 5-5-217, MCA, or direct sufficient staff resources to examine workers' compensation benefits, premium
14 cost drivers, and structural issues in Montana, particularly as they relate to the three-tiered system involving
15 self-insurers, private carriers, and the Montana State Fund.

16 BE IT FURTHER RESOLVED, that the examination of the structural issues of workers' compensation
17 insurance in Montana include the implications and requirements associated with:

18 (1) dissolving the Montana State Fund as a state-appointed workers' compensation insurer of last resort,
19 allowing the Montana State Fund to become a wholly independent company, and determining what other options
20 exist for an insurer of last resort or an assigned risk pool;

21 (2) revising the current structure of workers' compensation insurance by looking at structures in other
22 states, including the exclusive state-operated programs used in Wyoming and North Dakota, a combination of
23 a state-operated insurance plan with self-insured coverage allowed in Washington, and the Texas approach of
24 not mandating workers' compensation insurance but providing a structure for voluntary coverage. This approach
25 also may include a review of changes to Montana statutes that retain the existing three-tiered structure but
26 remove the statutory direction to the Montana State Fund to operate in the manner of a private insurance
27 company.

28 (3) making the Montana State Fund subject to regulation by the State Auditor's Office; and

29 (4) allowing the State of Montana to self-insure, insure with a Plan No. 2 workers' compensation insurer,
30 or revise the statutes related to the Montana State Fund.

1 BE IT FURTHER RESOLVED, that the examination of workers' compensation issues in Montana include
2 coordination with the Labor-Management Advisory Council on Workers' Compensation regarding:

3 (1) how workers' compensation coverage is structured and how changes to benefits, exemptions,
4 attorney fees, and related cost-driver issues affect premiums; and

5 (2) how Montana compares with neighboring states with similar industries in terms of frequency and
6 types of claims, court decisions affecting the course and scope of employment, costs and duration of medical
7 treatments, relationship between workers' compensation and age-related medical conditions, length of time off
8 work from injury, and the extent of open claims and the impact of laws in each state related to these factors.

9 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
10 presented to and reviewed by an appropriate committee designated by the Legislative Council.

11 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
12 requirements, be concluded prior to September 15, 2010.

13 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
14 comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

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