

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE MONTANA  
5 STATE FUND; REVISING LAWS RELATED TO EXPENSE CONSTANTS; PROVIDING FOR ADOPTION OF  
6 ADVISORY RATE AND EQUALIZED LOSS COST MULTIPLIERS FOR STATE FUND SOLVENCY; REVISING  
7 LAWS RELATED TO STATE FUND SOLVENCY AND SURPLUS; REVISING LAWS RELATING TO  
8 MULTIPLE RATING TIERS; REVISING LAWS RELATING TO THE WORKPLACE SAFETY PROGRAM;  
9 AMENDING SECTIONS 39-71-2311, 39-71-2330, AND 39-71-2331, MCA; AND PROVIDING AN EFFECTIVE  
10 DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 **Section 1.** Section 39-71-2311, MCA, is amended to read:

15 **"39-71-2311. Intent and purpose of plan -- expense constant defined adoption of advisory rate**  
16 **and equalized loss cost multiplier for solvency.** (1) It is the intent and purpose of the state fund to allow  
17 employers an option to insure their liability for workers' compensation and occupational disease coverage with  
18 the state fund. The state fund must be neither more nor less than self-supporting. Premium rates that include a  
19 reasonable expense constant must be set at least annually at a level sufficient to ensure the adequate funding  
20 of the insurance program, including the costs of administration, benefits, and adequate reserves, during and at  
21 the end of the period for which the rates will be in effect. In determining premium rates, the state fund shall  
22 make every effort to adequately predict future costs. ~~When the costs of a factor influencing rates are unclear~~  
23 ~~and difficult to predict, the state fund shall use a prediction calculated to be more than likely to cover those~~  
24 ~~costs rather than less than likely to cover those costs.~~ The prediction must take into account the goal of pooling  
25 risk and may not place an ~~undue burden on employers that are not eligible for the tier with the lowest rated~~  
26 ~~premium for workers' compensation purposes~~ inequitable burden on any employer or class of employers  
27 insured by the state fund.

28 (2) Unnecessary surpluses that are created by the imposition of premiums found to have been set

1 higher than necessary because of a high estimate of the cost of a factor or factors may be refunded by the  
 2 declaration of a dividend as provided in this part. For the purpose of keeping the state fund solvent, the board of  
 3 ~~directors may implement multiple rating tiers as provided in 39-71-2330 and may assess an expense constant,~~  
 4 ~~a minimum premium, or both~~ shall adopt the advisory loss cost rate filed by the advisory organization and  
 5 approved by the commissioner of insurance as provided in Title 33, chapter 16, part 10, plus an expense  
 6 constant not less than the equalized loss cost multiplier for solvency for the rating period. Scheduled premium  
 7 credits in any form filed with the rate may not produce a net rate lower than the applicable loss cost rate plus an  
 8 equalized loss cost multiplier for solvency net premium.

9 (3) As used in this section:

10 (a) "expense constant" means a premium charge applied to each workers' compensation policy to pay  
 11 expenses related to issuing, servicing, maintaining, recording, and auditing the policy; and

12 (b) "equalized loss cost multiplier for solvency" means an expense constant of 0.35% of the advisory  
 13 rate filed by the advisory organization and approved by the commissioner of insurance as provided in Title 33,  
 14 chapter 16, part 10."

15

16 **Section 2.** Section 39-71-2330, MCA, is amended to read:

17 **"39-71-2330. Rate setting -- surplus -- ~~multiple rating tiers.~~** (1) The board has the authority to  
 18 establish the rates to be charged by the state fund and the supplementary rate information to determine the  
 19 applicable premium as provided in 39-71-2311 and 39-71-2316 and shall file the rates and supplementary rate  
 20 information with the commissioner as provided in Title 33, chapter 16. The board shall engage the services of  
 21 an independent actuary who is a member in good standing with the American academy of actuaries to develop  
 22 and recommend actuarially sound rates. Rates must be set at amounts sufficient, when invested, to carry the  
 23 estimated cost of all claims to maturity, to meet the reasonable expenses of conducting the business of the  
 24 state fund, and to ~~amass and maintain an excess of a surplus over in~~ the amount produced by the national  
 25 association of insurance commissioners' risk-based capital requirements for a casualty insurer.

26 (2) Because surplus is desirable in the insurance business, the board shall annually determine the  
 27 level of surplus that must be maintained by the state fund pursuant to this section. The state fund shall use the  
 28 amount of the surplus above the risk-based capital requirements to secure the state fund against various risks

1 inherent in or affecting the business of insurance and not accounted for or only partially measured by the risk-  
2 based capital requirements.

3 ~~(3) The board may establish multiple rating tiers for classifications that take into consideration losses,~~  
4 ~~premium size, and other factors relevant in placing an employer within a rating tier. The board shall file any~~  
5 ~~multiple rating tiers with the commissioner for review as provided in Title 33, chapter 16."~~

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7 **Section 3.** Section 39-71-2331, MCA, is amended to read:

8 **"39-71-2331. Workplace safety program.** (1) An employer that ~~is not eligible for the tier with the~~  
9 ~~lowest rated premium~~ does not have an experience rating for workers' compensation purposes is eligible to join  
10 a state fund pooled risk safety group, as provided in 39-71-2332, if the employer:

11 (a) adopts and maintains a written, comprehensive workplace safety program that has been in place  
12 for more than 1 year and that meets the criteria established by rule implementing Title 39, chapter 71, part 15;

13 (b) adopts transitional and return-to-work programs;

14 (c) has at least 3 years of experience without losses;

15 (d) uses available safety consultation services or programs offered by the department or the state  
16 fund. Safety consultation may be provided to individual employers or to groups. The department and the state  
17 fund shall notify each employer in a group, as provided in 39-71-2332, regarding the availability of safety and  
18 return-to-work resources.

19 (e) complies with the terms and conditions of the state fund pooled risk safety group as provided in  
20 39-71-2332.

21 (2) The state fund and the department shall share information on workplace safety programs and  
22 transitional and return-to-work programs."

23

24 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2021.

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- END -