

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF THE STATE COMPENSATION INSURANCE FUND TO COMPSOURCE MONTANA; AMENDING SECTIONS 2-15-1019, 2-15-2015, 2-18-103, 2-18-601, 2-18-701, 2-18-703, 2-18-711, 15-30-303, 18-4-132, 18-7-101, 19-3-1002, 33-1-1205, 33-16-1011, 39-51-604, 39-71-116, 39-71-201, 39-71-206, 39-71-211, 39-71-226, 39-71-308, 39-71-403, 39-71-433, 39-71-434, 39-71-435, 39-71-915, 39-71-1004, 39-71-2211, 39-71-2311, 39-71-2312, 39-71-2313, 39-71-2314, 39-71-2315, 39-71-2316, 39-71-2317, 39-71-2318, 39-71-2319, 39-71-2320, 39-71-2321, 39-71-2322, 39-71-2323, 39-71-2325, 39-71-2327, 39-71-2328, 39-71-2330, 39-71-2336, 39-71-2337, 39-71-2339, 39-71-2340, 39-71-2351, 39-71-2352, 39-71-2356, 39-71-2361, 39-71-2362, 39-71-2363, AND 39-72-310, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 2-15-1019, MCA, is amended to read:

"2-15-1019. Board of directors of ~~state compensation insurance fund~~ compsource Montana. (1) There is a board of directors of ~~the state compensation insurance fund~~ compsource Montana, as defined in 39-71-2313.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of ~~the state fund~~ compsource Montana.

(4) The board consists of seven members appointed by the governor. The executive director of ~~the state fund~~ compsource Montana is an ex officio nonvoting member.

(5) At least four of the seven members ~~must~~ shall represent ~~state fund~~ compsource Montana policyholders and may be employees of ~~state fund~~ compsource Montana policyholders. At least four members of the board shall represent private, for-profit enterprises. One of the seven members may be a licensed insurance producer. A member of the board may not:

(a) except for the licensed insurance producer member, represent or be an employee of an insurance



1 company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

2 (b) be an employee of a self-insured employer under compensation plan No. 1.

3 (6) A member is appointed for a term of 4 years. The terms of board members must be staggered. A
4 member of the board may serve no more than two 4-year terms. A member shall hold office until a successor
5 is appointed and qualified.

6 (7) The members must be appointed and compensated in the same manner as members of a
7 quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be an
8 attorney does not apply."

9

10 **Section 2.** Section 2-15-2015, MCA, is amended to read:

11 **"2-15-2015. Workers' compensation fraud investigation and prosecution office.** There is a workers'
12 compensation fraud investigation and prosecution office in the department of justice. The office shall investigate
13 and prosecute cases referred by ~~the state compensation insurance fund~~ compsource Montana or the department
14 of labor and industry on behalf of the uninsured employers' fund. The office is under the supervision and control
15 of the attorney general and consists of:

16 (1) one or more investigators qualified by education, training, experience, and high professional
17 competence in investigative procedures who shall investigate violations of the provisions of Title 39, chapters
18 71 and 72, at the request of ~~the state compensation insurance fund~~ compsource Montana or the department of
19 labor and industry on behalf of the uninsured employers' fund; and

20 (2) one or more attorneys licensed to practice law in Montana who shall prosecute violations of the
21 provisions of Title 39, chapters 71 and 72. The attorneys may also assist county attorneys in prosecuting
22 violations of Title 39, chapters 71 and 72, without charge to the county.

23 (3) ~~The state compensation insurance fund~~ Compsource Montana, the department of labor and industry,
24 and the department of justice shall submit to the legislature for approval one proposed biennial budget for the
25 workers' compensation fraud office. The proposed budget for staffing and related expenses must be based upon
26 the needs of ~~the state compensation insurance fund~~ compsource Montana and the department of labor and
27 industry on behalf of the uninsured employers' fund for investigating and prosecuting workers' compensation
28 fraud."

29

30 **Section 3.** Section 2-18-103, MCA, is amended to read:

1 **"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following
2 officers and employees in state government:
3 (1) elected officials;
4 (2) county assessors and their chief deputies;
5 (3) employees of the office of consumer counsel;
6 (4) judges and employees of the judicial branch;
7 (5) members of boards and commissions appointed by the governor, the legislature, or other elected
8 state officials;
9 (6) officers or members of the militia;
10 (7) agency heads appointed by the governor;
11 (8) academic and professional administrative personnel with individual contracts under the authority
12 of the board of regents of higher education;
13 (9) academic and professional administrative personnel and live-in houseparents who have entered
14 into individual contracts with the state school for the deaf and blind under the authority of the state board of
15 public education;
16 (10) investment officer, assistant investment officer, executive director, and five professional staff
17 positions of the board of investments;
18 (11) four professional staff positions under the board of oil and gas conservation;
19 (12) assistant director for security of the Montana state lottery;
20 (13) executive director and employees of ~~the state compensation insurance fund~~ compsource Montana;
21 (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
22 (15) executive director of the Montana wheat and barley committee;
23 (16) commissioner of banking and financial institutions;
24 (17) training coordinator for county attorneys;
25 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
26 (19) chief information officer in the department of administration;
27 (20) chief business development officer and six professional staff positions in the office of economic
28 development provided for in 2-15-218."

29

30 **Section 4.** Section 2-18-601, MCA, is amended to read:

1 **2-18-601. Definitions.** For the purpose of this part, except 2-18-620, the following definitions apply:

2 (1) (a) "Agency" means any legally constituted department, board, or commission of state, county, or
3 city government or any political subdivision of the state.

4 (b) The term does not mean ~~the state compensation insurance fund~~ compsource Montana.

5 (2) "Break in service" means a period of time in excess of 5 working days when the person is not
6 employed and that severs continuous employment.

7 (3) "Continuous employment" means working within the same jurisdiction without a break in service of
8 more than 5 working days or without a continuous absence without pay of more than 15 working days.

9 (4) "Employee" means any person employed by an agency except elected state, county, and city
10 officials, schoolteachers, and persons contracted as independent contractors or hired under personal services
11 contracts.

12 (5) "Full-time employee" means an employee who normally works 40 hours a week.

13 (6) "Holiday" means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-216 or
14 20-1-305, except Sundays.

15 (7) "Part-time employee" means an employee who normally works less than 40 hours a week.

16 (8) "Permanent employee" means a permanent employee as defined in 2-18-101.

17 (9) "Seasonal employee" means a seasonal employee as defined in 2-18-101.

18 (10) "Short-term worker" means a short-term worker as defined in 2-18-101.

19 (11) "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or a
20 member of the employee's immediate family or for a permanent state employee who is eligible for parental leave
21 under the provisions of 2-18-606.

22 (12) "Temporary employee" means a temporary employee as defined in 2-18-101.

23 (13) "Transfer" means a change of employment from one agency to another agency in the same
24 jurisdiction without a break in service.

25 (14) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal
26 business at the request of the employee and with the concurrence of the employer."

27

28 **Section 5.** Section 2-18-701, MCA, is amended to read:

29 **2-18-701. Definitions.** In this part, as it applies to a person employed in the executive, judicial, or
30 legislative branches of state government, "employee" means:

- 1 (1) a permanent full-time employee, as provided in 2-18-601;
- 2 (2) a permanent part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20
3 hours or more a week;
- 4 (3) a seasonal full-time employee, as provided in 2-18-601, who is regularly scheduled to work 6 months
5 or more a year or who works for a continuous period of more than 6 months a year although not regularly
6 scheduled to do so;
- 7 (4) a seasonal part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20
8 hours or more a week for 6 months or more a year or who works 20 hours or more a week for a continuous
9 period of more than 6 months a year although not regularly scheduled to do so;
- 10 (5) elected officials;
- 11 (6) officers and permanent employees of the legislative branch;
- 12 (7) judges and permanent employees of the judicial branch;
- 13 (8) academic, professional, and administrative personnel having individual contracts under the authority
14 of the board of regents of higher education or the state board of public education;
- 15 (9) a temporary full-time employee, as provided in 2-18-601:
- 16 (a) who is regularly scheduled to work more than 6 months a year;
- 17 (b) who works for a continuous period of more than 6 months a year although not regularly scheduled
18 to do so; or
- 19 (c) whose temporary status is defined through collective bargaining;
- 20 (10) a temporary part-time employee, as provided in 2-18-601:
- 21 (a) who is regularly scheduled to work 20 hours or more a week for 6 months or more a year;
- 22 (b) who works 20 hours or more a week for a continuous period of more than 6 months a year although
23 not regularly scheduled to do so; or
- 24 (c) whose temporary status is defined through collective bargaining; and
- 25 (11) a part-time or full-time employee of ~~the state compensation insurance fund~~ compsource Montana.
- 26 As used in this subsection, "part-time or full-time employee of ~~the state compensation insurance fund~~
27 compsource Montana" means an employee eligible for inclusion in the state employee group benefit plans under
28 the rules of the department of administration."
29

30 **Section 6.** Section 2-18-703, MCA, is amended to read:

1 **"2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, and ~~the state compensation~~
2 ~~insurance fund~~ compsource Montana shall contribute the amount specified in this section toward the group
3 benefits cost.

4 (2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution
5 for group benefits is ~~\$295 a month for the period from July 2001 through December 2001, \$325 a month for the~~
6 ~~period from January 2002 through December 2002, and \$366 a month for January 2003 and for each~~
7 ~~succeeding month.~~ For employees of the Montana university system, the employer contribution for group
8 benefits is ~~\$325 a month for the period from July 2001 through June 2002 and \$366 a month for the period from~~
9 ~~July 2002 through June 2003 and for each succeeding month.~~ When a state employee is terminated to achieve
10 a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject
11 to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees
12 who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution.
13 An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state
14 contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs
15 for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group
16 benefit plan is the secondary payer and medicare the primary payer.

17 (3) For employees of elementary and high school districts and of local government units, the employer's
18 premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing
19 requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for premium
20 contributions for group benefits beyond the amount of contributions in effect on July 1, 1999, is not subject to
21 the mill levy calculation limitation provided for in 15-10-420.

22 (4) Unused employer contributions for any state employee must be transferred to an account
23 established for this purpose by the department of administration and upon transfer may be used to offset losses
24 occurring to the group of which the employee is eligible to be a member.

25 (5) Unused employer contributions for any government employee may be transferred to an account
26 established for this purpose by a self-insured government and upon transfer may be used to offset losses
27 occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

28 (6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide
29 group insurance plans from providing greater or additional contributions for insurance benefits to employees with
30 dependents than to employees without dependents or with fewer dependents."

1

2 **Section 7.** Section 2-18-711, MCA, is amended to read:

3 **"2-18-711. Cooperative purchasing of employee benefit services and insurance products --**
4 **procedures.** (1) To provide employee group benefits, an agency, as defined in 2-18-601, and ~~the state~~
5 ~~compensation insurance fund~~ compsource Montana may participate with other agencies, nonprofit organizations,
6 or business entities and in voluntary disability insurance purchasing pools provided for under 33-22-1815 if the
7 agency or ~~the state fund~~ compsource Montana determines that cooperative purchasing is in the agency's or ~~the~~
8 ~~state fund's~~ compsource Montana's best interest.

9 (2) Cooperative purchases under this section may be conducted according to purchasing procedures
10 developed by the participating parties if, for contracts valued at \$20,000 a year or more, purchasing procedures,
11 at a minimum, include:

12 (a) public notice in three major Montana newspapers of requirements for submitting bids or offers; and

13 (b) consideration of all submitted bids or offers.

14 (3) For purposes of this section, "employee" also means a schoolteacher."
15

16 **Section 8.** Section 15-30-303, MCA, is amended to read:

17 **"15-30-303. Confidentiality of tax records.** (1) Except as provided in subsections (7) and (8) or in
18 accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known
19 in any manner:

20 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
21 return required under this chapter or any other information secured in the administration of this chapter; or

22 (b) any federal return or federal return information disclosed on any return or report required by rule of
23 the department or under this chapter.

24 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
25 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
26 proceeding:

27 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

28 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
29 when the reports or facts shown by the reports are directly involved in the action or proceedings.

30 (b) The court may require the production of and may admit in evidence only as much of the reports or

1 of the facts shown by the reports as are pertinent to the action or proceedings.

2 (3) This section does not prohibit:

3 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
4 or report filed in connection with the taxpayer's tax;

5 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
6 the items of particular reports or returns; or

7 (c) the inspection by the attorney general or other legal representative of the state of the report or return
8 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
9 an action or proceeding has been instituted in accordance with the provisions of 15-30-311.

10 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the
11 department orders them to be destroyed.

12 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by
13 imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee
14 of the state, the offender must be dismissed from office and may not hold any public office in this state for a
15 period of 1 year after dismissal.

16 (6) This section may not be construed to prohibit the department from providing taxpayer return
17 information and information from employers' payroll withholding reports to:

18 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
19 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

20 (b) ~~the state fund~~ compsource Montana to be used for the purpose of investigation and prevention of
21 noncompliance, fraud, and abuse under the workers' compensation program.

22 (7) The department may permit the commissioner of internal revenue of the United States or the proper
23 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either
24 officer to inspect the return of income of any individual or may furnish to the officer or an authorized
25 representative an abstract of the return of income of any individual or supply the officer with information
26 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
27 or return of income of an individual, but the permission may be granted or information furnished only if the
28 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this
29 state charged with the administration of this chapter.

30 (8) The department shall furnish:

1 (a) to the department of justice all information necessary to identify those persons qualifying for the
2 additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of
3 justice to administer the provisions of 61-5-105;

4 (b) to the department of public health and human services information acquired under 15-30-301,
5 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
6 assistance fraud and abuse, provided notice to the applicant has been given;

7 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
8 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
9 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
10 industry is an employee, an independent contractor, or self-employed;

11 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
12 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
13 fishing licenses;

14 (e) to the board of regents information required under 20-26-1111;

15 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
16 information as provided in 5-12-303. The information provided to the office of budget and program planning must
17 be the same as the information provided to the legislative fiscal analyst.

18 (g) to the department of transportation farm income information based on the most recent income tax
19 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
20 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
21 of transportation is subject to the same restrictions on disclosure as are individual income tax returns."

22

23 **Section 9.** Section 18-4-132, MCA, is amended to read:

24 **"18-4-132. Application.** (1) This chapter applies to the expenditure of public funds irrespective of their
25 source, including federal assistance money, by this state acting through a governmental body under any
26 contract, except a contract exempted from this chapter by this section or by a statute that provides that this
27 chapter does not apply to the contract. This chapter applies to a procurement of supplies or services that is at
28 no cost to the state and from which income may be derived by the vendor and to a procurement of supplies or
29 services from which income or a more advantageous business position may be derived by the state. This
30 chapter does not apply to either grants or contracts between the state and its political subdivisions or other

1 governments, except as provided in part 4. This chapter also applies to the disposal of state supplies. This
2 chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision
3 from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

4 (2) This chapter does not apply to construction contracts.

5 (3) This chapter does not apply to expenditures of or the authorized sale or disposal of equipment
6 purchased with money raised by student activity fees designated for use by the student associations of the
7 university system.

8 (4) This chapter does not apply to contracts entered into by the Montana state lottery that have an
9 aggregate value of less than \$250,000.

10 (5) This chapter does not apply to contracts entered into by ~~the state compensation insurance fund~~
11 compsource Montana to procure insurance-related services.

12 (6) This chapter does not apply to employment of:

13 (a) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

14 (b) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

15 (c) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case
16 proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order
17 of the governor;

18 (d) consulting actuaries;

19 (e) a private consultant employed by the student associations of the university system with money
20 raised from student activity fees designated for use by those student associations;

21 (f) a private consultant employed by the Montana state lottery;

22 (g) a private investigator licensed by any jurisdiction; or

23 (h) a claims adjuster.

24 (7) (a) This chapter does not apply to electrical energy purchase contracts by the university of Montana
25 or Montana state university, as defined in 20-25-201.

26 (b) Any savings accrued by the university of Montana or Montana state university in the purchase or
27 acquisition of energy must be retained by the board of regents of higher education for university allocation and
28 expenditure."

29

30 **Section 10.** Section 18-7-101, MCA, is amended to read:

1 **"18-7-101. Power to contract for printing -- exception.** (1) Except as provided in 1-11-301, the
 2 department has exclusive power, subject to the approval of the governor, to contract for all printing for any
 3 purpose used by the state in any elective or appointive state office (~~elective or appointive~~), agency, or institution.

4 (2) The department shall supervise and attend to all public printing of the state as provided in this
 5 chapter and shall prevent duplication and unnecessary printing.

6 (3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter,
 7 for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions
 8 may determine the quantity, quality, style, and grade of all ~~such~~ printing, binding, and publishing.

9 (4) The provisions of this chapter do not apply to ~~the state compensation insurance fund~~ compsource
 10 Montana for purposes of external marketing or educational materials."
 11

12 **Section 11.** Section 19-3-1002, MCA, is amended to read:

13 **"19-3-1002. Eligibility for disability retirement.** (1) Except as provided in subsections (2) and (3), a
 14 member entering service prior to February 24, 1991, who is not eligible for service or early retirement but has
 15 at least 5 years of membership service and has become disabled while an active member is eligible for disability
 16 retirement, as provided in 19-3-1008(1).

17 (2) An active member age 60 or older who has completed 5 years of membership service and has had
 18 a duty-related accident forcing the member to terminate employment but who has not received or is ineligible
 19 to receive workers' compensation benefits under Title 39, chapter 71, for the duty-related accident may
 20 conditionally waive the member's eligibility for a service retirement in order to be eligible for disability retirement.
 21 The waiver is effective only upon approval by the board of the member's written application for disability
 22 retirement. The board shall determine whether a member has become disabled. The board may request any
 23 information on file with ~~the state compensation insurance fund~~ compsource Montana concerning any duty-related
 24 accident. If information is not available, the board may request and ~~the state fund~~ compsource Montana shall
 25 ~~then~~ provide an investigative report on the disabling accident.

26 (3) (a) A member in service on February 24, 1991, has a one-time election to be covered for disability
 27 purposes under the provisions of 19-3-1008(2). This election is irrevocable and must be made in writing by the
 28 member no later than December 31, 1991. Coverage under the provisions of 19-3-1008(2) commences on the
 29 date the completed written election is received by the board or its designated representative. To be eligible for
 30 disability benefits under the provisions of this part, a member must have completed 5 years of membership

1 service and must have become disabled while an active member.

2 (b) An individual becoming a member after February 24, 1991, who has completed 5 years of
3 membership service and has become disabled while an active member is covered for disability purposes under
4 the provisions of 19-3-1008(2) or (3)."

5

6 **Section 12.** Section 33-1-1205, MCA, is amended to read:

7 **"33-1-1205. Duties of authorized insurers, adjusters, administrators, consultants, and producers**
8 **-- notice exception.** (1) Each insurer, independent adjuster, independent administrator, independent consultant,
9 and independent producer shall cooperate fully with the commissioner with respect to the provisions of this part.

10 (2) Except as provided in subsection (4), an insurer, an officer, or an employee of the insurer, an
11 independent adjuster, an independent administrator, an independent consultant, or an independent producer
12 who has reason to believe that an insurance fraud has been or is being committed shall provide notice of the
13 alleged insurance fraud to the commissioner within 60 days. A producer of an insurer who has reason to believe
14 that an insurance fraud has been or is being committed shall report the alleged fraud to the insurer within 60
15 days of discovery of the alleged insurance fraud. The insurer shall review the report. If the insurer determines
16 that there is reasonable likelihood that fraud has occurred, the insurer shall forward the report to the
17 commissioner within 30 days of receipt of the report.

18 (3) Notice to the commissioner by an insurer who has reason to believe that an insurance fraud has
19 been committed in connection with an insurance claim, application, or policy tolls any applicable time period,
20 for the commissioner, in any applicable insurance statute, related insurance regulation, or applicable sections
21 of the criminal code and tolls any time period arising under 33-18-232 or 33-18-242 regarding unfair claims
22 settlement practices.

23 (4) Notice of an alleged insurance fraud involving an insurance claim or application submitted to ~~the~~
24 ~~state compensation insurance fund~~ compsource Montana or a policy issued by ~~the state compensation insurance~~
25 ~~fund~~ compsource Montana must be made within 60 days to the fraud detection and prevention unit established
26 pursuant to 39-71-211."

27

28 **Section 13.** Section 33-16-1011, MCA, is amended to read:

29 **"33-16-1011. Classification review committee -- membership -- term.** (1) There is a classification
30 review committee.

- 1 (2) The committee is composed of five voting members, consisting of:
- 2 (a) two representatives of private insurance carriers writing workers' compensation insurance in
3 Montana. The members must be appointed by the Montana commissioner of insurance.
- 4 (b) one licensed independent insurance producer who resides in Montana, appointed by the
5 commissioner of insurance;
- 6 (c) one representative of ~~the state compensation insurance fund~~ compsource Montana who is an
7 employee of ~~the state fund~~ compsource Montana and who is appointed by the executive director of ~~the state~~
8 ~~fund~~ compsource Montana; and
- 9 (d) one representative of an employer who is insured by either a private insurance carrier or ~~the state~~
10 ~~compensation insurance fund~~ compsource Montana, appointed by the commissioner of insurance.
- 11 (3) Each member shall hold office for a period of 3 years. An appointee who fills the vacancy of a
12 member whose term has not expired shall fill only the remaining term and may be reappointed for a full term.
- 13 (4) Before appointments are to be made by the commissioner of insurance under subsections (2)(a),
14 (2)(b), and (2)(d), established private organizations representing insurance carriers, independent insurance
15 producers, and employers may submit names of individuals they recommend for appointments. The
16 commissioner of insurance shall consider the names submitted before appointments are made. However, the
17 commissioner of insurance is not required to appoint any person from the names submitted.
- 18 (5) The committee must be staffed by the advisory organization designated under 33-16-1023 and be
19 funded by the advisory organization. Committee members may, if they request, be paid their actual and
20 necessary travel expenses.
- 21 (6) Documents and other information concerning the committee's actions must be made available for
22 public review in the office of the commissioner of insurance."

23

24 **Section 14.** Section 39-51-604, MCA, is amended to read:

25 **"39-51-604. Exemption.** An exemption granted under 39-71-401(3) by the department that a particular
26 employee is an independent contractor or that a particular employment is exempt from the provisions of this
27 chapter must be reported to ~~the state compensation insurance fund~~ compsource Montana."

28

29 **Section 15.** Section 39-71-116, MCA, is amended to read:

30 **"39-71-116. Definitions.** Unless the context otherwise requires, in this chapter, the following definitions

1 apply:

2 (1) "Actual wage loss" means that the wages that a worker earns or is qualified to earn after the worker
3 reaches maximum healing are less than the actual wages the worker received at the time of the injury.

4 (2) "Administer and pay" includes all actions by ~~the state fund~~ compsource Montana under the Workers'
5 Compensation Act and the Occupational Disease Act of Montana necessary to:

6 (a) investigation, review, and settlement of claims;

7 (b) payment of benefits;

8 (c) setting of reserves;

9 (d) furnishing of services and facilities; and

10 (e) use of actuarial, audit, accounting, vocational rehabilitation, and legal services.

11 (3) "Aid or sustenance" means a public or private subsidy made to provide a means of support,
12 maintenance, or subsistence for the recipient.

13 (4) "Average weekly wage" means the mean weekly earnings of all employees under covered
14 employment, as defined and established annually by the department. It is established at the nearest whole dollar
15 number and must be adopted by the department before July 1 of each year.

16 (5) "Beneficiary" means:

17 (a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

18 (b) an unmarried child under 18 years of age;

19 (c) an unmarried child under 22 years of age who is a full-time student in an accredited school or is
20 enrolled in an accredited apprenticeship program;

21 (d) an invalid child over 18 years of age who is dependent, as defined in 26 U.S.C. 152, upon the
22 decedent for support at the time of injury;

23 (e) a parent who is dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the time
24 of the injury if a beneficiary, as defined in subsections (5)(a) through (5)(d), does not exist; and

25 (f) a brother or sister under 18 years of age if dependent, as defined in 26 U.S.C. 152, upon the
26 decedent for support at the time of the injury but only until the age of 18 years and only when a beneficiary, as
27 defined in subsections (5)(a) through (5)(e), does not exist.

28 (6) "Business partner" means the community, governmental entity, or business organization that
29 provides the premises for work-based learning activities for students.

30 (7) "Casual employment" means employment not in the usual course of the trade, business, profession,

1 or occupation of the employer.

2 (8) "Child" includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the
3 injury.

4 (9) (a) "Construction industry" means the major group of general contractors and operative builders,
5 heavy construction (other than building construction) contractors, and special trade contractors, listed in major
6 group 23 in the North American Industry Classification System Manual.

7 (b) The term does not include office workers, design professionals, salespersons, estimators, or any
8 other related employment that is not directly involved on a regular basis in the provision of physical labor at a
9 construction or renovation site.

10 (10) "Days" means calendar days, unless otherwise specified.

11 (11) "Department" means the department of labor and industry.

12 (12) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

13 (13) "Household or domestic employment" means employment of persons other than members of the
14 household for the purpose of tending to the aid and comfort of the employer or members of the employer's
15 family, including but not limited to housecleaning and yard work, but does not include employment beyond the
16 scope of normal household or domestic duties, such as home health care or domiciliary care.

17 (14) "Insurer" means an employer bound by compensation plan No. 1, an insurance company
18 transacting business under compensation plan No. 2, or ~~the state fund~~ compsource Montana under
19 compensation plan No. 3.

20 (15) "Invalid" means one who is physically or mentally incapacitated.

21 (16) "Limited liability company" is as defined in 35-8-102.

22 (17) "Maintenance care" means treatment designed to provide the optimum state of health while
23 minimizing recurrence of the clinical status.

24 (18) "Medical stability", "maximum healing", or "maximum medical healing" means a point in the healing
25 process when further material improvement would not be reasonably expected from primary medical treatment.

26 (19) "Objective medical findings" means medical evidence, including range of motion, atrophy, muscle
27 strength, muscle spasm, or other diagnostic evidence, substantiated by clinical findings.

28 (20) "Order" means any decision, rule, direction, requirement, or standard of the department or any other
29 determination arrived at or decision made by the department.

30 (21) "Palliative care" means treatment designed to reduce or ease symptoms without curing the

1 underlying cause of the symptoms.

2 (22) "Payroll", "annual payroll", or "annual payroll for the preceding year" means the average annual
3 payroll of the employer for the preceding calendar year or, if the employer has not operated a sufficient or any
4 length of time during the calendar year, 12 times the average monthly payroll for the current year. However, an
5 estimate may be made by the department for any employer starting in business if average payrolls are not
6 available. This estimate must be adjusted by additional payment by the employer or refund by the department,
7 as the case may actually be, on December 31 of the current year. An employer's payroll must be computed by
8 calculating all wages, as defined in 39-71-123, that are paid by an employer.

9 (23) "Permanent partial disability" means a physical condition in which a worker, after reaching
10 maximum medical healing:

11 (a) has a permanent impairment established by objective medical findings;

12 (b) is able to return to work in some capacity but the permanent impairment impairs the worker's ability
13 to work; and

14 (c) has an actual wage loss as a result of the injury.

15 (24) "Permanent total disability" means a physical condition resulting from injury as defined in this
16 chapter, after a worker reaches maximum medical healing, in which a worker does not have a reasonable
17 prospect of physically performing regular employment. Regular employment means work on a recurring basis
18 performed for remuneration in a trade, business, profession, or other occupation in this state. Lack of immediate
19 job openings is not a factor to be considered in determining if a worker is permanently totally disabled.

20 (25) The "plant of the employer" includes the place of business of a third person while the employer has
21 access to or control over the place of business for the purpose of carrying on the employer's usual trade,
22 business, or occupation.

23 (26) "Primary medical services" means treatment prescribed by a treating physician, for conditions
24 resulting from the injury, necessary for achieving medical stability.

25 (27) "Public corporation" means the state or a county, municipal corporation, school district, city, city
26 under a commission form of government or special charter, town, or village.

27 (28) "Reasonably safe place to work" means that the place of employment has been made as free from
28 danger to the life or safety of the employee as the nature of the employment will reasonably permit.

29 (29) "Reasonably safe tools and appliances" are tools and appliances that are adapted to and that are
30 reasonably safe for use for the particular purpose for which they are furnished.

1 (30) (a) "Secondary medical services" means those medical services or appliances that are considered
2 not medically necessary for medical stability. The services and appliances include but are not limited to spas
3 or hot tubs, work hardening, physical restoration programs and other restoration programs designed to address
4 disability and not impairment, or equipment offered by individuals, clinics, groups, hospitals, or rehabilitation
5 facilities.

6 (b) (i) As used in this subsection (30), "disability" means a condition in which a worker's ability to engage
7 in gainful employment is diminished as a result of physical restrictions resulting from an injury. The restrictions
8 may be combined with factors, such as the worker's age, education, work history, and other factors that affect
9 the worker's ability to engage in gainful employment.

10 (ii) Disability does not mean a purely medical condition.

11 (31) "Sole proprietor" means the person who has the exclusive legal right or title to or ownership of a
12 business enterprise.

13 (32) "Temporary partial disability" means a physical condition resulting from an injury, as defined in
14 39-71-119, in which a worker, prior to maximum healing:

15 (a) is temporarily unable to return to the position held at the time of injury because of a medically
16 determined physical restriction;

17 (b) returns to work in a modified or alternative employment; and

18 (c) suffers a partial wage loss.

19 (33) "Temporary service contractor" means a person, firm, association, partnership, limited liability
20 company, or corporation conducting business that hires its own employees and assigns them to clients to fill a
21 work assignment with a finite ending date to support or supplement the client's workforce in situations resulting
22 from employee absences, skill shortages, seasonal workloads, and special assignments and projects.

23 (34) "Temporary total disability" means a physical condition resulting from an injury, as defined in this
24 chapter, that results in total loss of wages and exists until the injured worker reaches maximum medical healing.

25 (35) "Temporary worker" means a worker whose services are furnished to another on a part-time or
26 temporary basis to fill a work assignment with a finite ending date to support or supplement a workforce in
27 situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments and
28 projects.

29 (36) "Treating physician" means a person who is primarily responsible for the treatment of a worker's
30 compensable injury and is:

1 (a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting privileges
2 to practice in one or more hospitals, if any, in the area where the physician is located;

3 (b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;

4 (c) a physician assistant-certified licensed by the state of Montana under Title 37, chapter 20, if there
5 is not a treating physician, as provided for in subsection (36)(a), in the area where the physician
6 assistant-certified is located;

7 (d) an osteopath licensed by the state of Montana under Title 37, chapter 5;

8 (e) a dentist licensed by the state of Montana under Title 37, chapter 4;

9 (f) for a claimant residing out of state or upon approval of the insurer, a treating physician defined in
10 subsections (36)(a) through (36)(e) who is licensed or certified in another state; or

11 (g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter 8,
12 recognized by the board of nursing as a nurse practitioner or a clinical nurse specialist, and practicing in
13 consultation with a physician licensed under Title 37, chapter 3, if there is not a treating physician, as provided
14 for in subsection (36)(a), in the area in which the advanced practice registered nurse is located.

15 (37) "Work-based learning activities" means job training and work experience conducted on the
16 premises of a business partner as a component of school-based learning activities authorized by an elementary,
17 secondary, or postsecondary educational institution.

18 (38) "Year", unless otherwise specified, means calendar year."
19

20 **Section 16.** Section 39-71-201, MCA, is amended to read:

21 **"39-71-201. Administration fund.** (1) A workers' compensation administration fund is established out
22 of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the statutory
23 occupational safety acts the department is required to administer, with the exception of the subsequent injury
24 fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful appropriation.
25 The department shall collect and deposit in the state treasury to the credit of the workers' compensation
26 administration fund:

27 (a) all fees and penalties provided in 39-71-205, 39-71-223, 39-71-304, 39-71-307, 39-71-308,
28 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

29 (b) all fees paid by an assessment of 3% of paid losses, plus administrative fines and interest provided
30 by this section.

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

4 (a) total compensation benefits paid; and

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

8 (3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No.
9 3, ~~the state fund~~ compsource Montana, shall file annually on March 1 in the form and containing the information
10 required by the department a report of paid losses pursuant to subsection (2).

11 (4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation
12 plan No. 3, ~~the state fund~~ compsource Montana, shall pay a proportionate share of all costs of administering and
13 regulating the Workers' Compensation Act and the Occupational Disease Act of Montana and the statutory
14 occupational safety acts that the department is required to administer, with the exception of the subsequent
15 injury fund, as provided for in 39-71-907, and the uninsured employers' fund. In addition, compensation plan No.
16 3, ~~the state fund~~ compsource Montana, shall pay a proportionate share of these costs based upon paid losses
17 for claims arising before July 1, 1990.

18 (5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund
19 administrative and regulatory costs. The assessment is equal to 3% of the paid losses paid in the preceding
20 calendar year by or on behalf of the plan No. 1 employer or \$500, whichever is greater. Any entity, other than
21 the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is
22 considered to be the employer for the purposes of this section.

23 (b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund
24 administrative and regulatory costs. The assessment is equal to 3% of the paid losses paid in the preceding
25 calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled
26 under compensation plan No. 1.

27 (c) Payment of the assessment provided for by this subsection (5) must be paid by the employer in:

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

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

30 (d) If an employer fails to timely pay to the department the assessment under this section, the

1 department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount
2 at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers'
3 compensation administration fund.

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

9 (b) Payment of the assessment must be paid in:

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

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

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

16 (7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, ~~the state fund~~ compsource
17 Montana, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge
18 must be collected by each plan No. 2 insurer and by plan No. 3, ~~the state fund~~ compsource Montana, from each
19 employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's
20 policy or on a separate document submitted to the insured employer and must be identified as "workers'
21 compensation regulatory assessment surcharge". The premium surcharge must be excluded from the definition
22 of premiums for all purposes, including computation of insurance producers' commissions or premium taxes.
23 However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge.
24 When collected, assessments may not constitute an element of loss for the purpose of establishing rates for
25 workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed
26 upon insured employers.

27 (b) The amount to be funded by the premium surcharge is equal to 3% of the paid losses paid in the
28 preceding calendar year by or on behalf of all plan No. 2 insurers and 3% of paid losses for claims arising on
29 or after July 1, 1990, for plan No. 3, ~~the state fund~~ compsource Montana, plus or minus any adjustments as
30 provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all

1 employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single
2 premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must
3 be calculated annually by the department by not later than April 30. The resulting rate, expressed as a
4 percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or
5 plan No. 3 in the next fiscal year.

6 (c) On or before April 30, 2001, and on each succeeding April 30, the department, in consultation with
7 the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3,
8 ~~the state fund~~ compsource Montana, of the premium surcharge percentage to be effective for policies written
9 or renewed annually on and after July 1 of that year.

10 (d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each
11 insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay
12 to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter
13 in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge
14 collected under this section, the department may impose on the insurer an administrative fine of \$500 plus
15 interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be
16 deposited in the workers' compensation administration fund.

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

20 (f) The amount actually collected as a premium surcharge in a given year must be compared to the 3%
21 of paid losses paid in the preceding year. Any amount collected in excess of the 3% must be deducted from the
22 amount to be collected as a premium surcharge in the following year. The amount collected that is less than the
23 3% must be added to the amount to be collected as a premium surcharge in the following year.

24 (8) On or before April 30, 2001, and on each succeeding April 30, upon a determination by the
25 department, an insurer under compensation plan No. 2 that pays benefits in the preceding calendar year but that
26 will not collect any premium for coverage in the following fiscal year shall pay an assessment equal to 3% of paid
27 losses paid in the preceding calendar year, subject to a minimum assessment of \$500, that is due on July 1.

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

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

3 (11) The administration fund must be debited with expenses incurred by the department in the general
4 administration of the provisions of this chapter, including the salaries of its members, officers, and employees
5 and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503,
6 incurred while on the business of the department either within or without the state.

7 (12) Disbursements from the administration money must be made after being approved by the
8 department upon claim for disbursement.

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

14

15 **Section 17.** Section 39-71-206, MCA, is amended to read:

16 **"39-71-206. Legal advisers of department and ~~state fund~~ compsource Montana -- investigative**
17 **and prosecution services.** (1) The attorney general is the legal adviser of the department and ~~the state fund~~
18 compsource Montana and shall represent either entity in all proceedings if requested by the department or ~~state~~
19 fund compsource Montana. The department and ~~state fund~~ compsource Montana may employ other attorneys
20 or legal advisers as they consider necessary.

21 (2) As provided in 2-15-2015, the attorney general shall provide investigative and prosecution services
22 to ~~the state fund~~ compsource Montana with respect to violations of Title 39, chapters 71 and 72."

23

24 **Section 18.** Section 39-71-211, MCA, is amended to read:

25 **"39-71-211. Fraud detection and prevention unit -- expenditure accounting.** (1) ~~The state fund~~
26 Compsource Montana shall establish a fraud prevention and detection unit. The unit is responsible for
27 developing detection and prevention procedures, providing detection services, and providing training in the
28 prevention and detection of fraudulent conduct under Title 39, chapters 71 and 72, that is subject to prosecution
29 under Title 45. The unit shall refer all cases of suspected fraudulent conduct to the workers' compensation fraud
30 investigation and prosecution office established in 2-15-2015.

1 (2) ~~The state fund~~ Compsource Montana shall expend money to investigate fraud pursuant to this
2 section and shall separately account for money expended."

3

4 **Section 19.** Section 39-71-226, MCA, is amended to read:

5 **"39-71-226. Claims expenditures codes.** ~~The state fund~~ Compsource Montana shall continually review
6 its claims expenditure coding structure to separately account for claims and administrative expenses. If a review
7 demonstrates a compelling need for expenditure information that is not available, ~~the state fund~~ compsource
8 Montana shall expand or modify its claims expenditure coding structure."

9

10 **Section 20.** Section 39-71-308, MCA, is amended to read:

11 **"39-71-308. Neglect or refusal of public corporation to file payroll reports -- arbitrary assessment**
12 **by department.** If a public corporation insured by ~~the state fund~~ compsource Montana neglects or refuses to
13 file prescribed payroll reports of its employees, the department may levy an arbitrary assessment upon the public
14 corporation in an amount of \$75 for each assessment. The assessment must be collected in the manner
15 provided in this chapter for the collection of assessments."

16

17 **Section 21.** Section 39-71-403, MCA, is amended to read:

18 **"39-71-403. Plan three exclusive for state agencies -- election of plan by public corporations --**
19 **financing of self-insurance fund -- exemption for university system -- definition.** (1) Except as provided in
20 subsection (5), if a state agency is the employer, the terms, conditions, and provisions of compensation plan No.
21 3, ~~state fund~~ compsource Montana, are exclusive, compulsory, and obligatory upon both employer and
22 employee. Any sums necessary to be paid under the provisions of this chapter by a state agency are considered
23 to be ordinary and necessary expenses of the agency. The agency shall ~~make appropriation of and~~ pay the sums
24 into ~~the state fund~~ compsource Montana at the time and in the manner provided for in this chapter,
25 notwithstanding that the state agency may have failed to anticipate the ordinary and necessary expense in a
26 budget, estimate of expenses, appropriations, ordinances, or otherwise.

27 (2) A public corporation, other than a state agency, may elect coverage under compensation plan No.
28 1, plan No. 2, or plan No. 3, separately or jointly with any other public corporation, other than a state agency. A
29 public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant
30 to subsection (3)(b). A public corporation electing compensation plan No. 1 is subject to the same provisions as

1 a private employer electing compensation plan No. 1.

2 (3) (a) A public corporation, other than a state agency, that elects plan No. 1 may establish a fund
3 sufficient to pay the compensation and benefits provided for in chapter 72 and this chapter and to discharge all
4 liabilities that are reasonably incurred during the fiscal year for which the election is effective. Proceeds from the
5 fund must be used only to pay claims covered by chapter 72 and this chapter and for actual and necessary
6 expenses required for the efficient administration of the fund, including debt service on any bonds and notes
7 issued pursuant to subsection (3)(b).

8 (b) (i) A public corporation, other than a state agency, separately or jointly with another public
9 corporation, other than a state agency, may issue and sell its bonds and notes for the purpose of establishing,
10 in whole or in part, the self-insurance workers' compensation fund provided for in subsection (3)(a) and to pay
11 the costs associated with the sale and issuance of the bonds. Bonds and notes may be issued in an amount not
12 exceeding 0.18% of the total assessed value of taxable property, determined as provided in 15-8-111, of the
13 public corporation as of the date of issue. The bonds and notes must be authorized by resolution of the
14 governing body of the public corporation and are payable from an annual property tax levied in the amount
15 necessary to pay principal and interest on the bonds or notes. This authority to levy an annual property tax exists
16 despite any provision of law or maximum levy limitation, including 15-10-420, to the contrary. The revenue
17 derived from the sale of the bonds and notes may not be used for any other purpose.

18 (ii) The bonds and notes:

19 (A) may be sold at public or private sale;

20 (B) do not constitute debt within the meaning of any statutory debt limitation; and

21 (C) may contain other terms and provisions that the governing body determines.

22 (iii) Two or more public corporations, other than state agencies, may agree to exercise their respective
23 borrowing powers jointly under this subsection (3)(b) or may authorize a joint board to exercise the powers on
24 their behalf.

25 (iv) The fund established from the proceeds of bonds and notes issued and sold under this subsection
26 (3)(b) may, if sufficient, be used in lieu of a surety bond, reinsurance, specific and aggregate excess insurance,
27 or any other form of additional security necessary to demonstrate the public corporation's ability to discharge
28 all liabilities as provided in subsection (3)(a). Subject to the total assessed value limitation in subsection (3)(b)(i),
29 a public corporation may issue bonds and notes to establish a fund sufficient to discharge liabilities for periods
30 greater than 1 year.

1 (4) All money in the fund established under subsection (3)(a) not needed to meet immediate
2 expenditures must be invested by the governing body of the public corporation or the joint board created by two
3 or more public corporations as provided in subsection (3)(b)(iii), and all proceeds of the investment must be
4 credited to the fund.

5 (5) The provisions of subsection (1) do not apply to the Montana university system.

6 (6) As used in subsections (2) through (4), "public corporation" includes the Montana university system."
7

8 **Section 22.** Section 39-71-433, MCA, is amended to read:

9 **"39-71-433. Group purchase of workers' compensation insurance.** (1) Two or more business
10 entities may join together to form a group to purchase individual workers' compensation insurance policies
11 covering each member of the group.

12 (2) A group formed under this section may purchase individual workers' compensation insurance
13 policies covering each member of the group from any insurer authorized to write workers' compensation
14 insurance in this state, except that ~~the state fund~~ compsource Montana, as defined in 39-71-2312, has the right
15 to refuse coverage of a group and its plan of operation but may not refuse coverage to an individual employer.
16 Under an individual policy, the group is entitled to a premium or volume discount that would be applicable to a
17 policy of the combined premium amount of the individual policies.

18 (3) A group shall apportion any discount or policyholder dividend received on workers' compensation
19 insurance coverage among the members of the group according to a formula adopted in the plan of operation
20 for the group.

21 (4) A group shall adopt a plan of operation that must include the composition and selection of a
22 governing board, the methods for administering the group, the eligibility requirements to join the group, and
23 guidelines for the workers' compensation insurance coverage obtained by the group, including the payment of
24 premiums, the distribution of discounts, and the method for providing risk management."
25

26 **Section 23.** Section 39-71-434, MCA, is amended to read:

27 **"39-71-434. Deductible insurance policy provision for medical benefits.** (1) In order to lower the
28 amount an employer is required to pay to obtain workers' compensation insurance coverage under this chapter,
29 a workers' compensation policy issued by ~~the state compensation insurance fund~~ compsource Montana under
30 plan No. 3 or by a private insurer under plan No. 2 must offer a deductible for the medical, hospital, and related

1 services allowed under 39-71-704. The medical deductible must be offered in amounts of at least \$500.

2 (2) If the insured employer chooses to accept a medical deductible, the insured employer is liable for
3 the amount of the deductible for the medical benefits paid for each otherwise compensable claim of work injury
4 suffered by an employee.

5 (3) The insured employer shall contract with the insurer to have the insurer pay the entire cost of the
6 covered medical benefits directly to the provider of medical or related services and then seek reimbursement
7 from the insured employer for the deductible amount. The insurer is entitled to reimbursement only for medical,
8 hospital, and related services allowed under 39-71-704, up to the amount of the deductible.

9 (4) If an insured employer who has contracted with an insurer for a medical deductible does not pay the
10 medical deductible amount to the insurer through reimbursement, the amount paid by the insurer on the claim
11 may be included as benefits paid in a determination of the insured employer's rate.

12 (5) If an insured employer chooses to accept a medical deductible, then for purposes of computing rates
13 and rating plans, all medical losses incurred must be reported to the insurer without regard to the application of
14 any medical deductible regardless of whether the employer or the insurer pays the losses."

15

16 **Section 24.** Section 39-71-435, MCA, is amended to read:

17 **"39-71-435. Workers' compensation and employers' liability insurance -- optional deductibles.**

18 (1) An insurer issuing a workers' compensation or an employer's liability insurance policy may offer to the
19 policyholder, as part of the policy or by endorsement, optional deductibles for benefits payable under the policy
20 consistent with the standards contained in subsection (3).

21 (2) The advisory organization designated under 33-16-1023 may develop and file a deductible plan or
22 plans on behalf of its members consistent with the standards contained in subsection (3).

23 (3) The commissioner of insurance shall approve a deductible plan that is in accordance with the
24 following standards:

25 (a) Claimants' rights are properly protected and claimants' benefits are paid without regard to the
26 deductible.

27 (b) Premium reductions reflect the type and level of the deductible, consistent with accepted actuarial
28 standards.

29 (c) Premium reductions for deductibles are determined before application of any experience
30 modification, premium surcharge, or premium discount.

1 (d) Recognition is given to policyholder characteristics, including but not limited to size, financial
2 capabilities, nature of activities, and number of employees.

3 (e) The policyholder is liable to the insurer for the deductible amount in regard to benefits paid for
4 compensable claims.

5 (f) The insurer pays all of the deductible amount applicable to a compensable claim to the person or
6 provider entitled to benefits and then seeks reimbursement from the policyholder for the applicable deductible
7 amount.

8 (g) Failure by the policyholder to reimburse deductible amounts to the insurer is treated under the policy
9 as nonpayment of premium.

10 (h) Losses subject to the deductible must be reported and recorded as losses for purposes of
11 calculating rates for a policyholder on the same basis as losses under policies providing first dollar coverage.

12 (4) ~~The state compensation insurance fund~~ Compsource Montana, plan No. 3, may adopt the plan filed
13 by the designated advisory organization or adopt an optional deductible plan that meets the requirements of this
14 section.

15 (5) For purposes of 39-71-201 and 39-71-915, liability for assessments must be ascertained without
16 regard to application of any deductible, whether the employer or the insurer pays the losses. For all other taxes
17 and assessments based on premium, the amount of premium or assessment must be determined after
18 application of the deductible."

19

20 **Section 25.** Section 39-71-915, MCA, is amended to read:

21 **"39-71-915. Assessment of insurer -- employers -- definition -- collection.** (1) As used in this
22 section, "paid losses" means the following benefits paid during the preceding calendar year for injuries covered
23 by the Montana Workers' Compensation Act and the Occupational Disease Act of Montana without regard to
24 the application of any deductible, regardless of whether the employer or the insurer pays the losses:

25 (a) total compensation benefits paid; and

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

29 (2) The fund must be maintained by assessing each plan No. 1 employer, each employer insured by
30 a plan No. 2 insurer, plan No. 3, ~~the state fund~~ compsource Montana, with respect to claims arising before July

1 1, 1990, and each employer insured by plan No. 3, ~~the state fund~~ compsource Montana. The assessment
2 amount is the total amount of paid losses reimbursed from the fund in the preceding calendar year and the
3 expenses of administration less other income. The total assessment amount to be collected must be allocated
4 among plan No. 1 employers, plan No. 2 employers, plan No. 3, ~~the state fund~~ compsource Montana, and plan
5 No. 3 employers, based on a proportionate share of paid losses for the calendar year preceding the year in
6 which the assessment is collected. The board of investments shall invest the money of the fund, and the
7 investment income must be deposited in the fund.

8 (3) On or before April 30 each year, the department shall notify each plan No. 1 employer, plan No. 2
9 insurer, and plan No. 3, ~~the state fund~~ compsource Montana, of the amount to be assessed for the ensuing fiscal
10 year. The amount to be assessed against ~~the state fund~~ compsource Montana must separately identify the
11 amount attributed to claims arising before July 1, 1990, and the amount attributable to ~~state fund~~ compsource
12 Montana claims arising on or after July 1, 1990. On or before April 30 each year, the department, in consultation
13 with the advisory organization designated under 33-16-1023, shall notify plan No. 2 insurers and plan No. 3 of
14 the premium surcharge rate to be effective for policies written or renewed on and after July 1 in that year.

15 (4) The portion of the plan No. 1 assessment assessed against an individual plan No. 1 employer is a
16 proportionate amount of total plan No. 1 paid losses during the preceding calendar year that is equal to the
17 percentage that the total paid losses of the individual plan No. 1 employer bore to the total paid losses of all plan
18 No. 1 employers during the preceding calendar year.

19 (5) The portion of the assessment attributable to ~~state fund~~ compsource Montana claims arising before
20 July 1, 1990, is the proportionate amount that is equal to the percentage that total paid losses for those claims
21 during the preceding calendar year bore to the total paid losses for all plans in the preceding calendar year. As
22 required by 39-71-2352, ~~the state fund~~ compsource Montana may not pass along to insured employers the cost
23 of the subsequent injury fund assessment that is attributable to claims arising before July 1, 1990.

24 (6) The remaining portion of the assessment must be paid by way of a surcharge on premiums paid by
25 employers being insured by a plan No. 2 insurer or plan No. 3, ~~the state fund~~ compsource Montana, for policies
26 written or renewed annually on or after July 1. The surcharge rate must be computed by dividing the remaining
27 portion of the assessment by the total amount of premiums paid by employers insured under plan No. 2 or plan
28 No. 3 in the previous calendar year. The numerator for the calculation must be adjusted as provided by
29 subsection (9).

30 (7) Each plan No. 2 insurer providing workers' compensation insurance and plan No. 3, ~~the state fund~~

1 compsource Montana, shall collect from its policyholders the assessment premium surcharge provided for in
2 subsection (6). When collected, the assessment premium surcharge may not constitute an element of loss for
3 the purpose of establishing rates for workers' compensation insurance but, for the purpose of collection, must
4 be treated as separate costs imposed upon insured employers. The total of this assessment premium surcharge
5 must be stated as a separate cost on an insured employer's policy or on a separate document submitted by the
6 insured employer and must be identified as "workers' compensation subsequent injury fund surcharge". Each
7 assessment premium surcharge must be shown as a percentage of the total workers' compensation policyholder
8 premium. This assessment premium surcharge must be collected at the same time and in the same manner that
9 the premium for the coverage is collected. The assessment premium surcharge must be excluded from the
10 definition of premiums for all purposes, including computation of insurance producers' commissions or premium
11 taxes, except that an insurer may cancel a workers' compensation policy for nonpayment of the assessment
12 premium surcharge. Cancellation must be in accordance with the procedures applicable to the nonpayment of
13 premium. If an employer fails to remit to an insurer the total amount due for the premium and assessment
14 premium surcharge, the amount received by the insurer must be applied to the assessment premium surcharge
15 first and the remaining amount applied to the premium due.

16 (8) (a) All assessments paid to the department must be deposited in the fund.

17 (b) Each plan No. 1 employer shall pay its assessment by July 1.

18 (c) Each plan No. 2 insurer and plan No. 3, ~~the state fund~~ compsource Montana, shall remit to the
19 department all assessment premium surcharges collected during a calendar quarter by not later than 20 days
20 following the end of the quarter.

21 (d) ~~The state fund~~ Compsource Montana shall pay the portion of the assessment attributable to claims
22 arising before July 1, 1990, by July 1.

23 (e) If a plan No. 1 employer, a plan No. 2 insurer, or plan No. 3, ~~the state fund~~ compsource Montana,
24 fails to timely pay to the department the assessment or assessment premium surcharge under this section, the
25 department may impose on the plan No. 1 employer, the plan No. 2 insurer, or plan No. 3, ~~the state fund~~
26 compsource Montana, an administrative fine of \$100 plus interest on the delinquent amount at the annual
27 interest rate of 12%. Administrative fines and interest must be deposited in the fund.

28 (9) The amount of the assessment premium surcharge actually collected pursuant to subsection (7)
29 must be compared each year to the amount assessed and upon which the premium surcharge was calculated.
30 The amount undercollected or overcollected in any given year must be used as an adjustment to the numerator

1 provided for by subsection (6) for the following year's assessment premium surcharge."
2

3 **Section 26.** Section 39-71-1004, MCA, is amended to read:

4 **"39-71-1004. Industrial accident rehabilitation account.** (1) The payments provided in 39-71-1003
5 must be made from the industrial accident rehabilitation account in the state special revenue fund. Payments
6 to the account must be made each year upon an assessment by the department as follows:

7 (a) by each employer operating under the provisions of plan No. 1 of the Workers' Compensation Act,
8 an amount to be assessed by the department, not exceeding 1% of the compensation paid to the employer's
9 injured employees in Montana for the preceding calendar year;

10 (b) by each insurer insuring employers under the provisions of plan No. 2 of the Workers' Compensation
11 Act, an amount to be assessed by the department, not exceeding 1% of the compensation paid to injured
12 employees of its insured in Montana during the preceding calendar year;

13 (c) by ~~the state fund~~ compsource Montana, an amount to be assessed by the department, not exceeding
14 1% of the compensation paid by ~~the state fund~~ compsource Montana to injured employees in Montana during
15 the preceding calendar year.

16 (2) Separate accounts of the amounts that were collected and disbursements that were made from the
17 industrial accident rehabilitation account in the state special revenue fund must be kept for each of the plans.
18 If in any fiscal year the amount that was collected from the employers under any plan exceeds the amount of
19 payments for employees of the employers under the plan, the assessment against the employers under the plan
20 for the following year must be reduced.

21 (3) The payments provided for in this section must be made to the department, which shall credit the
22 sums paid to the industrial accident rehabilitation account in the custody of the state treasurer. Disbursements
23 from the account must be made after approval by the department.

24 (4) The funds allocated or contributed as provided in this section may not be used for payment of
25 administrative expenses of the department.

26 (5) The methods and processes used to disburse rehabilitation expense payments to eligible disabled
27 workers are procedural and do not affect the substantive rights of those disabled workers."
28

29 **Section 27.** Section 39-71-2211, MCA, is amended to read:

30 **"39-71-2211. Premium rates for construction industry -- filing required.** (1) With respect to each

1 classification of risk in the construction industry under plan No. 2, the advisory organization designated under
 2 33-16-1023 shall file with the commissioner of insurance a method of computing premiums that does not impose
 3 a higher insurance premium solely because of an employer's higher rate of wages paid.

4 (2) The commissioner shall accept a filing under subsection (1) that includes a reasonable method of
 5 recognizing differences in rates of pay. This method must use a credit scale with the starting point set at 1.168
 6 times the Montana average weekly wage as reported by the department.

7 (3) The advisory organization shall file a revenue neutral plan for new and renewed policies for prompt
 8 and orderly transition to a method of computing premiums that is in compliance with the requirements of this
 9 section.

10 (4) ~~The state compensation insurance fund~~ Compsource Montana, plan No. 3, shall adopt the plan filed
 11 by the designated advisory organization or adopt a credit scale plan that meets the requirements of this section."

12

13 **Section 28.** Section 39-71-2311, MCA, is amended to read:

14 **"39-71-2311. Intent and purpose of plan -- expense constant defined.** (1) It is the intent and purpose
 15 of ~~the state fund~~ compsource Montana to allow employers an option to insure their liability for workers'
 16 compensation and occupational disease coverage with ~~the state fund~~ compsource Montana. ~~The state fund~~
 17 Compsource Montana must be neither more nor less than self-supporting. Premium rates must be set at least
 18 annually at a level sufficient to ensure the adequate funding of the insurance program, including the costs of
 19 administration, benefits, and adequate reserves, during and at the end of the period for which the rates will be
 20 in effect. In determining premium rates, ~~the state fund~~ compsource Montana shall make every effort to
 21 adequately predict future costs. When the costs of a factor influencing rates are unclear and difficult to predict,
 22 ~~the state fund~~ compsource Montana shall use a prediction calculated to be more than likely to cover those costs
 23 rather than less than likely to cover those costs. Unnecessary surpluses that are created by the imposition of
 24 premiums found to have been set higher than necessary because of a high estimate of the cost of a factor or
 25 factors may be refunded by the declaration of a dividend as provided in this part. For the purpose of keeping ~~the~~
 26 ~~state fund~~ compsource Montana solvent, the board of directors may implement multiple rating tiers as provided
 27 in 39-71-2330 and may assess an expense constant, a minimum premium, or both.

28 (2) As used in this section, "expense constant" means a premium charge applied to each workers'
 29 compensation policy to pay expenses related to issuing, servicing, maintaining, recording, and auditing the
 30 policy."

1

2 **Section 29.** Section 39-71-2312, MCA, is amended to read:

3 **"39-71-2312. Definitions.** Unless the context requires otherwise, in this part the following definitions
4 apply:

5 (1) "Board" means the board of directors of ~~the state compensation insurance fund~~ compsource
6 Montana provided for in 2-15-1019.

7 (2) "Compsource Montana" means the entity provided for in 39-71-2313. The term also means
8 compensation plan No. 3 or plan No. 3 and includes the "state compensation insurance fund" as identified in
9 Article VIII, section 13, of the Montana constitution.

10 ~~(2)(3)~~ "Department" means the department of administration provided for in 2-15-1001.

11 ~~(3)(4)~~ "Executive director" means the chief executive officer of ~~the state compensation insurance fund~~
12 compsource Montana.

13 ~~(4)~~ "State fund" means ~~the state compensation insurance fund provided for in 39-71-2313. It is also~~
14 ~~known as compensation plan No. 3 or plan No. 3."~~

15

16 **Section 30.** Section 39-71-2313, MCA, is amended to read:

17 **"39-71-2313. ~~State compensation insurance fund~~ Compsource Montana created -- obligation to**
18 **insure.** (1) ~~There is a state compensation insurance fund known as the state fund~~ Compsource Montana that
19 is a nonprofit, independent public corporation established for the purpose of allowing an option for employers
20 to insure their liability for workers' compensation and occupational disease coverage under this chapter.

21 (2) ~~The state fund~~ Compsource Montana is required to insure any employer in this state who requests
22 coverage, and it may not refuse to provide coverage unless an employer or the employer's principals have
23 defaulted on a ~~state fund~~ compsource Montana obligation and the default remains unsatisfied."

24

25 **Section 31.** Section 39-71-2314, MCA, is amended to read:

26 **"39-71-2314. ~~State fund~~ Compsource Montana subject to laws applying to state agencies.** The
27 ~~state fund~~ Compsource Montana is subject to laws that generally apply to state agencies, including but not
28 limited to Title 2, chapters 2, 3, 4 (only as provided in 39-71-2316), and 6, and Title 5, chapter 13. ~~The state fund~~
29 Compsource Montana is not exempt from a law that applies to state agencies unless that law specifically
30 exempts ~~the state fund~~ compsource Montana by name and clearly states that it is exempt from that law."

1

2 **Section 32.** Section 39-71-2315, MCA, is amended to read:

3 "**39-71-2315. Management of ~~state fund~~ compsource Montana -- powers and duties of the board**

4 **-- business plan required.** (1) The management and control of ~~the state fund~~ compsource Montana is vested
5 solely in the board.

6 (2) The board is vested with full power, authority, and jurisdiction over ~~the state fund~~ compsource
7 Montana. The board may perform all acts necessary or convenient in the exercise of any power, authority, or
8 jurisdiction over ~~the state fund~~ compsource Montana, either in the administration of ~~the state fund~~ compsource
9 Montana or in connection with the insurance business to be carried on under the provisions of this part, as fully
10 and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and
11 intent of this part. Bonds may not be issued by the board, ~~the state fund~~ compsource Montana, or the executive
12 director.

13 (3) The board shall adopt a business plan no later than June 30 for the next fiscal year. At a minimum,
14 the plan must include:

15 (a) specific goals for the fiscal year for financial performance. The standard for measurement of financial
16 performances must include an evaluation of premium to surplus.

17 (b) specific goals for the fiscal year for operating performance. Goals must include but not be limited
18 to specific performance standards for staff in the area of senior management, underwriting, and claims
19 administration. Goals must, in general, maximize efficiency, economy, and equity as allowed by law.

20 (4) The business plan must be available upon request to the general public for a fee not to exceed the
21 actual cost of publication. However, performance goals relating to a specific employment position are
22 confidential and not available to the public.

23 (5) No sooner than July 1 or later than October 31, the board shall convene a public meeting to review
24 the performance of ~~the state fund~~ compsource Montana, using the business plan for comparison of all the
25 established goals and targets. The board shall publish, by November 30 of each year, a report of ~~the state fund's~~
26 compsource Montana's actual performance as compared to the business plan.

27 (6) ~~The state fund~~ Compsource Montana's board of ~~directors~~ shall establish in-house guidelines for
28 procurement of insurance-related services and shall include guidelines for the solicitation of submissions of
29 information regarding insurance-related services from more than one vendor. The board may include guidelines
30 for the circumstances when business necessity or expedience may preclude the solicitation of submissions from

1 more than one vendor. The board may also include in the guidelines the exemptions to the procurement process
2 in 18-4-132."

3

4 **Section 33.** Section 39-71-2316, MCA, is amended to read:

5 **"39-71-2316. Powers of ~~state fund~~ Compsource Montana.** For the purposes of carrying out its
6 functions, ~~the state fund~~ compsource Montana may:

7 (1) insure any employer for workers' compensation and occupational disease liability as the coverage
8 is required by the laws of this state and, as part of the coverage, provide related employers' liability insurance
9 upon approval of the board;

10 (2) sue and be sued;

11 (3) except as provided in section 21, Chapter 4, Special Laws of May 1990, enter into contracts relating
12 to the administration of ~~the state fund~~ compsource Montana, including claims management, servicing, and
13 payment;

14 (4) collect and disburse money received;

15 (5) adopt classifications and charge premiums for the classifications so that ~~the state fund~~ compsource
16 Montana will be neither more nor less than self-supporting. Premium rates for classifications may only be
17 adopted and changed using a process, a procedure, formulas, and factors set forth in rules adopted under Title
18 2, chapter 4, parts 2 through 4. After the rules have been adopted, ~~the state fund~~ compsource Montana need
19 not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The
20 contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium
21 rate. ~~The state fund~~ Compsource Montana is required to belong to a licensed workers' compensation advisory
22 organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, and may
23 use the classifications of employment adopted by the designated workers' compensation advisory organization,
24 as provided in Title 33, chapter 16, part 10, and corresponding rates as a basis for setting its own rates. Except
25 as provided in Title 33, chapter 16, part 10, a workers' compensation advisory organization or a licensed
26 workers' compensation rating organization under Title 33, chapter 16, part 4, or other person may not, without
27 first obtaining the written permission of the employer, use, sell, or distribute an employer's specific payroll or loss
28 information, including but not limited to experience modification factors.

29 (6) pay the amounts determined to be due under a policy of insurance issued by ~~the state fund~~
30 compsource Montana;

- 1 (7) hire personnel;
- 2 (8) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid
3 until adequate actuarially determined reserves are set aside.
- 4 (9) adopt and implement one or more alternative personal leave plans pursuant to 39-71-2328;
- 5 (10) upon approval of the board, contract with licensed resident insurance producers;
- 6 (11) upon approval of the board, enter into agreements with licensed workers' compensation insurers,
7 insurance associations, or insurance producers to provide workers' compensation coverage in other states to
8 Montana-domiciled employers insured with ~~the state fund~~ compsource Montana;
- 9 (12) upon approval of the board, expend funds for scholarship, educational, or charitable purposes;
- 10 (13) upon approval of the board, including terms and conditions, provide employers coverage under the
11 federal Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.), the federal Merchant Marine
12 Act, 1920 (Jones Act, 46 U.S.C. 688), and the federal Employers' Liability Act (45 U.S.C. 51, et seq.);
- 13 (14) perform all functions and exercise all powers of a private insurance carrier that are necessary,
14 appropriate, or convenient for the administration of ~~the state fund~~ compsource Montana."

15

16 **Section 34.** Section 39-71-2317, MCA, is amended to read:

17 **"39-71-2317. Appointment of executive director -- management staff.** The board shall appoint an
18 executive director of ~~the state fund~~ compsource Montana who has general responsibility for the operations of
19 ~~the state fund~~ compsource Montana. The executive director must have executive level experience, with
20 knowledge of the insurance industry. The executive director must receive compensation as set by the board and
21 serve at the pleasure of the board. The executive director may hire the management staff of ~~the state fund~~
22 compsource Montana, each of whom serves at the pleasure of the executive director."

23

24 **Section 35.** Section 39-71-2318, MCA, is amended to read:

25 **"39-71-2318. Personal liability excluded.** The members of the board, the executive director, and
26 employees of ~~the state fund~~ compsource Montana are not liable personally, either jointly or severally, for any
27 debt or obligation created or incurred by ~~the state fund~~ compsource Montana."

28

29 **Section 36.** Section 39-71-2319, MCA, is amended to read:

30 **"39-71-2319. Assets and liabilities of prior ~~state fund~~ compsource Montana.** All assets and funds

1 held by ~~the state compensation insurance fund~~ compsource Montana established in former 39-71-2301,
 2 39-71-2302, 39-71-2304 through 39-71-2306, and 39-71-2324 and 39-71-2321 through 39-71-2323, 39-71-2325
 3 through 39-71-2327, 39-71-2336, 39-71-2339, and 39-71-2340 must be transferred to ~~the state fund~~ compsource
 4 Montana, and ~~the state fund~~ compsource Montana shall assume liability for all outstanding claims and
 5 indebtedness of the previously existing state fund."

6

7 **Section 37.** Section 39-71-2320, MCA, is amended to read:

8 **"39-71-2320. Property of state fund compsource Montana -- investment required --exception. (†)**

9 ~~Except as provided in subsection (2), all~~ All premiums and other money paid to ~~the state fund~~ compsource
 10 Montana, all property and securities acquired through the use of money belonging to ~~the state fund~~ compsource
 11 Montana, and all interest and dividends earned upon money belonging to ~~the state fund~~ compsource Montana
 12 are the sole property of ~~the state fund~~ compsource Montana and must be used exclusively for the operations
 13 and obligations of ~~the state fund~~ compsource Montana. The money collected by ~~the state fund~~ compsource
 14 Montana may not be used for any other purpose. However, ~~state fund~~ compsource Montana money must be
 15 invested by the board of investments provided for in 2-15-1808.

16 ~~(2) The state fund shall pay to the general fund:~~

17 ~~—— (a) \$10 million in the fiscal year ending June 30, 1998; and~~

18 ~~—— (b) \$10 million in the fiscal year ending June 30, 1999."~~

19

20 **Section 38.** Section 39-71-2321, MCA, is amended to read:

21 **"39-71-2321. What to be deposited in state fund compsource Montana.** (1) All premiums, penalties,
 22 recoveries by subrogation, interest earned upon money belonging to ~~the state fund~~ compsource Montana,
 23 securities acquired by or through use of money, and all interest and penalties on taxes in accordance with
 24 15-1-501 must be deposited in ~~the state fund~~ compsource Montana. Except for a transfer authorized under
 25 39-71-2352, the money must be separated into two accounts based upon whether they relate to claims for
 26 injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents
 27 that occur on or after that date.

28 (2) All funds deposited in ~~the state fund~~ compsource Montana may be spent as provided in
 29 17-8-101(2)(b)."

30

1 **Section 39.** Section 39-71-2322, MCA, is amended to read:

2 **"39-71-2322. Money in ~~state fund~~ compsource Montana held in trust -- disposition of funds upon**
3 **repeal of chapter -- exception.** Except as provided in 39-71-2320, the money coming into ~~the state fund~~
4 compsource Montana must be held in trust for the purpose for which the money was collected. If this chapter
5 is repealed, the money is subject to the disposition provided by the legislature repealing this chapter. In the
6 absence of a legislative provision, distribution must be in accordance with the justice of the matter, due regard
7 being given to obligations of compensation incurred and existing."

8

9 **Section 40.** Section 39-71-2323, MCA, is amended to read:

10 **"39-71-2323. Surplus in ~~state fund~~ compsource Montana -- payment of dividends.** Subject to the
11 provisions of 39-71-2316, if at the end of any fiscal year there exists in the ~~state fund~~ compsource Montana
12 account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990,
13 an excess of assets over liabilities, including necessary reserves and an appropriate surplus as determined by
14 the board in accordance with 39-71-2330, and if the excess may be refunded safely, then the board, after
15 consultation with the independent actuary engaged pursuant to 39-71-2330, may declare a dividend. The rules
16 of ~~the state fund~~ compsource Montana must prescribe the manner of payment to those employers who have paid
17 premiums into ~~the state fund~~ compsource Montana in excess of liabilities."

18

19 **Section 41.** Section 39-71-2325, MCA, is amended to read:

20 **"39-71-2325. ~~State fund~~ Compsource Montana to keep accounts of segregations.** ~~The state fund~~
21 Compsource Montana shall keep an accurate account of all the segregations of ~~the state fund~~ compsource
22 Montana and shall divert from ~~the fund~~ compsource Montana any sums necessary to meet monthly payments,
23 pending the conversion into cash of any security, and, in ~~such that~~ case, shall repay the ~~same~~ payment out of
24 the cash realized from the security."

25

26 **Section 42.** Section 39-71-2327, MCA, is amended to read:

27 **"39-71-2327. Earnings of ~~state fund~~ compsource Montana to be credited to ~~fund~~ compsource**
28 **Montana -- improper use a felony -- exception.** Except as provided in 39-71-2320, all earnings made by ~~the~~
29 ~~state fund~~ compsource Montana by reason of interest paid for the deposit of funds or otherwise must be credited
30 to and become a part of ~~the fund~~ compsource Montana, and the making of profit, either directly or indirectly, by

1 any person out of the use of the ~~fund~~ money belonging to compsource Montana is a felony. A person convicted
 2 of an offense under this section is punishable by imprisonment in the state prison for a term not to exceed 2
 3 years or a fine of not more than \$5,000, or both."

4

5 **Section 43.** Section 39-71-2328, MCA, is amended to read:

6 **"39-71-2328. ~~State fund~~ Compsource Montana alternative personal leave plan -- exception --**
 7 **collective bargaining negotiation -- personal leave definition.** (1) Except as provided in subsection (2), ~~the~~
 8 ~~state fund~~ compsource Montana, after consultation with the department of administration, may develop an
 9 alternative personal leave plan for all ~~state compensation insurance fund~~ compsource Montana employees. The
 10 number of days and the rate at which the number of days are earned for the alternative personal leave plan must
 11 be the same as the combined total of days provided for in 2-18-612 and 2-18-618. Prior to implementation, the
 12 alternative personal leave plan must be adopted by the board and the board may adopt changes to the plan.

13 (2) ~~The state fund~~ Compsource Montana, after consultation with the department of administration, may
 14 develop one or more alternative personal leave plans for some or all of its employees or may choose to develop
 15 an alternative personal leave plan for a particular class of employees or work unit.

16 (3) To the extent that an alternative personal leave plan applies to an employee who is a member of
 17 a collective bargaining unit, the implementation of the personal leave plan is subject to negotiation under
 18 39-31-305.

19 (4) As used in this section, "personal leave" means all leave provided to an employee under the
 20 provisions of Title 2, chapter 18, part 6."

21

22 **Section 44.** Section 39-71-2330, MCA, is amended to read:

23 **"39-71-2330. Rate setting -- surplus -- multiple rating tiers.** (1) The board has the authority to
 24 establish the rates to be charged by ~~the state fund~~ compsource Montana for insurance. The board shall engage
 25 the services of an independent actuary who is a member in good standing with the American academy of
 26 actuaries to develop and recommend actuarially sound rates. Rates must be set at amounts sufficient, when
 27 invested, to carry the estimated cost of all claims to maturity, to meet the reasonable expenses of conducting
 28 the business of ~~the state fund~~ compsource Montana, and to amass and maintain an excess of surplus over the
 29 amount produced by the national association of insurance commissioners' risk-based capital requirements for
 30 a casualty insurer.

1 (2) Because surplus is desirable in the insurance business, the board shall annually determine the level
 2 of surplus that must be maintained by ~~the state fund~~ compsource Montana pursuant to this section, but shall
 3 maintain a minimum surplus of 25% of annual earned premium. ~~The state fund~~ Compsource Montana shall use
 4 the amount of the surplus above the risk-based capital requirements to secure ~~the state fund~~ compsource
 5 Montana against various risks inherent in or affecting the business of insurance and not accounted for or only
 6 partially measured by the risk-based capital requirements.

7 (3) The board may implement multiple rating tiers for classifications that take into consideration losses,
 8 premium size, and other factors relevant in placing an employer within a rating tier."

9

10 **Section 45.** Section 39-71-2336, MCA, is amended to read:

11 **"39-71-2336. Manner of electing -- contract or policy of insurance -- payment of premium.** ~~The~~
 12 ~~state fund~~ Compsource Montana shall prescribe the procedure by which an employer may elect to be bound by
 13 compensation plan No. 3, the effective time of the election, and the manner in which the election is terminated
 14 for reasons other than default in payment of premiums. Every employer electing to be bound by compensation
 15 plan No. 3 must receive from ~~the state fund~~ compsource Montana a contract or policy of insurance in a form
 16 approved by the department. The premium must be paid by the employer to ~~the state fund~~ compsource Montana
 17 at ~~such the times as the state fund~~ that compsource Montana prescribes and must be paid over by ~~the state fund~~
 18 compsource Montana to the state treasurer to the credit of ~~the state fund~~ compsource Montana."

19

20 **Section 46.** Section 39-71-2337, MCA, is amended to read:

21 **"39-71-2337. State fund Compsource Montana to submit notice of coverage within thirty days**
 22 **-- penalty for failure.** (1) ~~The state fund~~ Compsource Montana shall, within 30 days after the issuance of an
 23 insurance policy, submit to the department the notice of coverage stating the effective date of the policy insuring
 24 the employer and other information the department requires.

25 (2) The department:

26 (a) may recognize the advisory organization designated under 33-16-1023 or recognize other
 27 organizations as agents for ~~the state fund~~ compsource Montana; and

28 (b) shall, under terms and conditions acceptable to the department, accept notice of coverage received
 29 from the agents recognized under subsection (2)(a) as ~~the state fund's~~ compsource Montana's notice of
 30 coverage.

1 (3) The department may assess a penalty of no more than \$200 against ~~the state fund~~ compsource
2 Montana if, as a general business practice, ~~the state fund~~ compsource Montana does not comply with the 30-day
3 notice requirement."

4

5 **Section 47.** Section 39-71-2339, MCA, is amended to read:

6 **"39-71-2339. Cancellation of coverage -- twenty days' notice required.** (1) ~~The state fund~~
7 Compsource Montana may cancel an employer's coverage under this part for failure to report payroll or pay the
8 premiums due or for another cause provided in the insurance policy. Cancellation may take effect only by written
9 notice to the named insured and the department at least 20 days prior to the date of cancellation or, in cases
10 of nonreporting of payroll or nonpayment of a premium, by failure of the employer to submit payroll reports or
11 pay a premium within 20 days after the due date. ~~The state fund~~ Compsource Montana shall notify the
12 department of the names and effective dates of all policies canceled. However, the policy terminates on the
13 effective date of a replacement or succeeding insurance policy issued to the insured. This section does not
14 prevent ~~the state fund~~ compsource Montana from canceling an insurance policy before a replacement policy is
15 issued to the insured. After the cancellation date, the employer has the same status as an employer who is not
16 enrolled under the Workers' Compensation Act unless a replacement or succeeding insurance policy has been
17 issued.

18 (2) The department:

19 (a) may recognize the advisory organization designated under 33-16-1023 or recognize other
20 organizations as agents for ~~the state fund~~ compsource Montana; and

21 (b) shall, under terms and conditions acceptable to the department, accept notice of cancellation
22 received from the agents recognized under subsection (2)(a) as ~~the state fund's~~ compsource Montana's notice
23 of cancellation.

24 (3) (a) The department may assess a penalty of up to \$200 against ~~the state fund~~ compsource Montana
25 if it does not comply with the notice requirement in subsection (1).

26 (b) ~~The state fund~~ Compsource Montana may contest the penalty assessment in a hearing conducted
27 according to department rules."

28

29 **Section 48.** Section 39-71-2340, MCA, is amended to read:

30 **"39-71-2340. Collection in case of default.** (1) If an employer under plan No. 3 defaults in any

1 payment to ~~the state fund~~ compsource Montana, ~~the state fund~~ compsource Montana may collect the sum due
 2 in a civil action in the name of the state. The right of action is cumulative.

3 (2) If an employer's right to operate has been canceled by ~~the state fund~~ compsource Montana for
 4 failure to pay premiums and ~~the state fund~~ compsource Montana finds that the property and assets of the
 5 employer are not sufficient to pay the premiums, ~~the state fund~~ compsource Montana may compromise the claim
 6 for premiums and accept a payment of an amount less than the total amount due."

7

8 **Section 49.** Section 39-71-2351, MCA, is amended to read:

9 **"39-71-2351. Purpose of separation of ~~state fund~~ compsource Montana liability as of July 1, 1990,**
 10 **and of separate funding of claims before and on or after that date.** (1) An unfunded liability exists in ~~the state~~
 11 ~~fund~~ compsource Montana. It has existed since at least the mid-1980s and has grown each year. There have
 12 been numerous attempts to solve the problem by legislation and other methods. These attempts have alleviated
 13 the problem somewhat, but the problem has not been solved.

14 (2) The legislature has determined that it is necessary to the public welfare to make workers'
 15 compensation insurance available to all employers through ~~the state fund~~ compsource Montana as the insurer
 16 of last resort. In making this insurance available, ~~the state fund~~ compsource Montana has incurred the unfunded
 17 liability. The legislature has determined that the most cost-effective and efficient way to provide a source of
 18 funding for and to ensure payment of the unfunded liability and the best way to administer the unfunded liability
 19 is to separate the liability of ~~the state fund~~ compsource Montana on the basis of whether a claim is for an injury
 20 resulting from an accident that occurred before July 1, 1990, or an accident that occurs on or after that date.

21 (3) The legislature further determines that in order to prevent the creation of a new unfunded liability
 22 with respect to claims for injuries for accidents that occur on or after July 1, 1990, certain duties of ~~the state fund~~
 23 compsource Montana should be clarified and legislative oversight of ~~the state fund~~ compsource Montana should
 24 be increased."

25

26 **Section 50.** Section 39-71-2352, MCA, is amended to read:

27 **"39-71-2352. Separate payment structure and sources for claims for injuries resulting from**
 28 **accidents that occurred before July 1, 1990, and on or after July 1, 1990 -- spending limit -- authorizing**
 29 **transfer of money for payment of claims.** (1) Premiums paid to ~~the state fund~~ compsource Montana based
 30 upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting

1 from accidents that occurred before July 1, 1990. Premiums paid to ~~the state fund~~ compsource Montana based
2 upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting
3 from accidents that occur on or after July 1, 1990.

4 (2) ~~The state fund~~ Compsource Montana shall:

5 (a) determine the cost of administering and paying claims for injuries resulting from accidents that
6 occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries
7 resulting from accidents that occur on or after July 1, 1990;

8 (b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

9 (c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents
10 that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1,
11 1990, separately from the sources provided by law.

12 (3) ~~The state fund~~ Compsource Montana may not spend more than \$1.25 million a year to administer
13 claims for injuries resulting from accidents that occurred before July 1, 1990.

14 (4) As used in this section, "adequately funded" means the present value of:

15 (a) the total cost of future benefits remaining to be paid;

16 (b) the cost of administering the claims; and

17 (c) an additional amount equal to 10% of the total of the amounts in subsections (4)(a) and (4)(b).

18 (5) Based on audited financial statements adjusted for unrealized gains and losses for the fiscal year
19 ending June 30, 2002, funds in excess of the adequate funding amount established in subsection (4) must be
20 transferred as follows:

21 (a) Prior to June 30, 2003:

22 (i) the amount of \$1.9 million must be transferred to the general fund to be transferred to the state library
23 equipment account and appropriated to the university system and the department of public health and human
24 services; and

25 (ii) the amount of \$2.1 million must be transferred to the school flexibility fund, provided for in 20-9-543.

26 (b) In the fiscal year ending June 30, 2003, the remaining amount, and in subsequent fiscal years, an
27 amount of funds in excess of the adequate funding amount established in subsection (4) must be transferred
28 to the account established in 39-71-2321 to pay claims for injuries resulting from accidents that occurred on or
29 after July 1, 1990. The total amount of funds transferred under this subsection may not exceed \$63.8 million.

30 (6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from

1 accidents that occurred before July 1, 1990, are not adequately funded, any amount necessary to pay claims
 2 for injuries resulting from accidents that occurred before July 1, 1990, must be transferred from the general fund
 3 to the account provided for in 39-71-2321.

4 (7) The independent actuary engaged by ~~the state fund~~ compsource Montana pursuant to 39-71-2330
 5 shall project the unpaid claims liability for claims for injuries resulting from accidents that occurred before July
 6 1, 1990, each fiscal year until all claims are paid."

7
 8 **Section 51.** Section 39-71-2356, MCA, is amended to read:
 9 **"39-71-2356. Mutually agreeable lump-sum settlements.** During the period beginning October 1,
 10 1991, and ending September 30, 1992, a workers' compensation claimant and ~~the state fund~~ compsource
 11 Montana may, regardless of the lump-sum law in effect on the date of the injury, mutually agree to a lump-sum
 12 settlement of a claim. If a mutual agreement is not reached, the lump-sum law in effect on the date of the injury
 13 applies."

14
 15 **Section 52.** Section 39-71-2361, MCA, is amended to read:
 16 **"39-71-2361. Legislative audit of ~~state fund~~ compsource Montana.** The legislative auditor shall
 17 annually conduct or have conducted a financial ~~and~~ compliance audit of ~~the state fund~~ compsource Montana,
 18 including its operations relating to claims for injuries resulting from accidents that occurred before July 1, 1990.
 19 The audit must include evaluations of the claims reservation process, the amounts reserved, and the current
 20 report of ~~the state fund's~~ compsource Montana's actuary. The evaluations may be conducted by persons
 21 appointed under 5-13-305. Audit and evaluation costs are an expense of and must be paid by ~~the state fund~~
 22 compsource Montana and must be allocated between those claims for injuries resulting from accidents that
 23 occurred before July 1, 1990, and those claims for injuries resulting from accidents that occur on or after that
 24 date."

25
 26 **Section 53.** Section 39-71-2362, MCA, is amended to read:
 27 **"39-71-2362. Authority of legislative auditor with respect to ~~state fund~~ compsource Montana.** The
 28 legislative auditor shall review rates established by the board to determine if the rates are excessive, inadequate,
 29 or unfairly discriminatory. Each year, the legislative auditor shall:

30 (1) examine ~~the state fund~~ compsource Montana beginning no sooner than October 1 following the end

1 of the fiscal year; and

2 (2) report the findings of the examination and rate review to the governor, the legislature, and the board
3 of directors of the state fund compsource Montana."

4

5 **Section 54.** Section 39-71-2363, MCA, is amended to read:

6 **"39-71-2363. Agency law -- submission of budget -- annual report.** (1) ~~The state fund~~ Compsource
7 Montana is subject to state laws applying to state agencies, except as otherwise provided by law, and it is
8 exempt from the provisions of The Legislative Finance Act in Title 5, chapter 12, and the provisions of Title 17,
9 chapter 7, parts 1 through 4. ~~The state fund~~ Compsource Montana may use the debt collection procedures
10 provided in Title 17, chapter 4, part 1.

11 (2) (a) Except as provided in 2-15-2015, the executive director shall annually submit to the board for
12 its approval an estimated budget of the entire expense of administering ~~the state fund~~ compsource Montana for
13 the succeeding fiscal year, with due regard to the business interests and contract obligations of ~~the state fund~~
14 compsource Montana. A copy of the approved budget must be delivered to the governor and the legislature.

15 (b) Upon approval of the estimated budget for the succeeding fiscal year, ~~the state fund~~ compsource
16 Montana shall, no later than October 1 of each year, submit the approved annual budget for review to the
17 legislative finance committee established under 5-12-201.

18 (c) Dividends may not be included as administrative expenditures as provided in subsection (2)(a), but
19 are a disbursement of excess surplus pursuant to 39-71-2323 after a determination by ~~the state fund~~
20 compsource Montana of income from operations.

21 (3) The board shall submit an annual financial report to the governor and to the legislature as provided
22 in 5-11-210, indicating the business done by ~~the state fund~~ compsource Montana during the previous year and
23 containing a statement of the estimated liabilities of ~~the state fund~~ compsource Montana as determined by an
24 independent actuary."

25

26 **Section 55.** Section 39-72-310, MCA, is amended to read:

27 **"39-72-310. Occupational disease coverage under workers' compensation plans.** (1) ~~Every~~ Each
28 employer enrolled under compensation plan No. 1, ~~every~~ each insurer under compensation plan No. 2, and ~~the~~
29 ~~state fund~~ compsource Montana under compensation plan No. 3, all provided for under the Workers'
30 Compensation Act, are considered to also provide full coverage for claims under this chapter. Any policy of

1 insurance for workers' compensation coverage under the Workers' Compensation Act written by a private
 2 insurance carrier or ~~the state fund~~ compsource Montana is considered to provide full occupational disease
 3 coverage under the provisions of this chapter.

4 (2) Except as provided in this chapter, the department shall apply the appropriate provisions of Title 39,
 5 chapter 71, parts 21, 22, and 23, to the administration of The Occupational Disease Act of Montana in the same
 6 manner as they are applied to the administration of the Workers' Compensation Act.

7 (3) Under compensation plan No. 3, any premiums and other receipts held by ~~the state fund~~
 8 compsource Montana for occupational disease insurance coverage must be transferred to the workers'
 9 compensation industrial insurance account, and payments for occupational disease claims by ~~the state fund~~
 10 compsource Montana must be paid out of the industrial insurance account."

11
 12 **NEW SECTION. Section 56. Name change -- directions to code commissioner.** In any legislation
 13 enacted by the 58th legislature referring to "state fund" or "state compensation insurance fund", the code
 14 commissioner is instructed to change the reference to "compsource Montana".

15
 16 **NEW SECTION. Section 57. Coordination instruction.** (1) If Senate Bill No. 153 is not passed and
 17 approved, then [this act] is void.

18 (2) If Senate Bill No. 153 and [this act] are passed and approved, then [sections 1 through 4] of Senate
 19 Bill No. 153 must read as follows:

20 **"NEW SECTION. Section 1. Purpose.** (1) It is the intent of the legislature that compsource Montana
 21 function as a self-supporting, independent, nonprofit public corporation of the state of Montana.

22 (2) The legislature recognizes that the operation of a competitive state workers' compensation insurance
 23 program is a unique activity for state government and that the structure of a public corporation rather than a state
 24 agency best enables compsource Montana to be managed and to operate in an entrepreneurial and
 25 business-like manner and ensures long-term financial stability and operational flexibility.

26 (3) Except for those functions that are unique to compsource Montana as the guaranteed market for
 27 workers' compensation insurance, it is also the intent of the legislature that compsource Montana operate and
 28 be regulated under the laws in Title 33, the Montana Insurance Code, in a manner similar to the laws applied
 29 to a private workers' compensation insurer.

30 **NEW SECTION. Section 2. State agency status not applied to compsource Montana --**

1 **exceptions.** (1) Unless specifically included in [sections 1 through 4] or in a specific law by name, compsource
2 Montana is not a state agency and is exempt from laws that generally apply to the state, a state agency, an
3 agency, a public agency, a governmental entity, agency, institution, or board, or a political subdivision.

4 (2) (a) Until July 1, 2007, compsource Montana may contract with any state agency or governmental
5 entity for the performance of any duty, function, or service, including rental of office space at compsource
6 Montana's location on [the effective date of this section] and use of state contracts for goods or services that may
7 be necessary in the course of its operations.

8 (b) Beginning July 1, 2005, payment of rent to the department of administration must be based on fair
9 market value. On or after July 1, 2007, compsource Montana may continue to lease the building at compsource
10 Montana's location on [the effective date of this section].

11 (3) Compsource Montana is subject to:

12 (a) the requirements of 2-6-109, regarding the prohibition on distribution or sale of mailing lists;

13 (b) the provisions of 2-17-551 through 2-17-553, concerning the Governmental Internet Information
14 Privacy Act;

15 (c) the provisions of 2-17-601 through 2-17-604, concerning government competition with private
16 internet providers; and

17 (d) the provisions of Title 18 for purposes of construction contracts only. However, legislative approval
18 for construction or remodeling contracts of less than \$200,000 is not required.

19 (4) Compsource Montana is specifically exempt from the provisions of Title 2, chapter 4, of the Montana
20 Administrative Procedure Act.

21 (5) (a) Except as provided in subsection (5)(b), compsource Montana, its employees, and the board are
22 not a state governmental entity, as defined in 2-9-101, for purposes of Title 2, chapter 9. Compsource Montana
23 shall provide its own insurance plan for all claims, as defined in 2-9-101, that arise against compsource Montana,
24 its employees, and the board.

25 (b) Prior to July 1, 2003, compsource Montana, its employees, and the board are a state governmental
26 entity for purposes of Title 2, chapter 9, and those claims, as defined in 2-9-101, against compsource Montana
27 that arose from acts or omissions before July 1, 2003, remain subject to the provisions of Title 2, chapter 9.

28 (6) Compsource Montana shall defend and indemnify its directors, officers, and employees in any civil
29 action brought for a negligent act, error, or omission, including alleged violations of civil rights pursuant to 42
30 U.S.C. 1983, or other actionable conduct of the employee committed while acting within the course and scope

1 of the employee's office or employment.

2 **NEW SECTION. Section 3. Operation as domestic mutual insurance company -- issuance of**
3 **certificate of authority -- liquidation or dissolution prohibited -- exceptions.** (1) Except as otherwise
4 provided by law and in accordance with this part, compsource Montana shall, beginning January 1, 2005,
5 operate as a domestic mutual insurance company and is subject to the applicable provisions of Title 33,
6 including payment of a premium tax in 2005 for calendar year 2004.

7 (2) Beginning January 1, 2005, the commissioner shall issue a certificate of authority to compsource
8 Montana to write workers' compensation insurance and related coverages, as provided in 39-71-2316. The
9 certificate of authority must be continuously renewed by the commissioner, and compsource Montana shall pay
10 the annual fee under 33-2-708 and provide the surplus funds required under 33-2-109 and 33-2-110 to the
11 commissioner.

12 (3) Beginning January 1, 2005, any examination by the commissioner of compsource Montana pursuant
13 to 33-1-401 must be provided to the board, the governor, and the legislative audit division.

14 (4) Beginning January 1, 2005, compsource Montana, as the guaranteed market for workers'
15 compensation insurance for Montana employers, is not subject to:

16 (a) revocation or suspension of its certificate of authority;

17 (b) the provisions for liquidation or dissolution of an insurer contained in Title 33, chapter 2, part 13,
18 because compsource Montana is subject to dissolution only by action of the legislature. Compsource Montana
19 may be declared insolvent and is subject to supervision or rehabilitation as provided in Title 33, chapter 2, part
20 13. However, if the commissioner determines, based on the results of an examination, that compsource Montana
21 would otherwise be subject to the dissolution or liquidation provisions of Title 33, chapter 2, part 13, a report
22 detailing the determination must be submitted to the board, the governor, and the legislative audit division.

23 (c) the requirements of Title 33, chapter 3, concerning domestic stock insurers and domestic mutual
24 insurers;

25 (d) Title 33, chapter 10, part 1, concerning casualty and property insurance guaranty associations;

26 (e) the requirements of 33-12-104, concerning authorization of investments by the board; and

27 (f) the requirements of Title 33, chapter 16, except as specifically provided for plan No. 3, compsource
28 Montana.

29 (5) If a conflict occurs between Title 33 and this part, this part controls.

30 **NEW SECTION. Section 4. Compsource Montana employee status -- participation in public**

1 **employees' retirement system and group benefits -- collective bargaining.** (1) The employees of
2 compsource Montana are public employees. Except as provided in subsection (2), the employees of compsource
3 Montana are not subject to the laws generally applicable to employees of the state of Montana unless specifically
4 included in this section or in the law by name.

5 (2) The employees of compsource Montana and compsource Montana are subject to group insurance
6 and benefits, as provided in Title 2, chapter 18, parts 7 and 8, the public employees' retirement system
7 authorized under Title 19, chapters 1 through 3, and deferred compensation, as provided in Title 19, chapter 50.

8 (3) Except as provided in subsection (4), compsource Montana is a public employer for purposes of
9 collective bargaining for public employees, as provided in Title 39, chapter 31.

10 (4) As a public employer, compsource Montana shall represent itself in collective bargaining with an
11 exclusive representative."

12

13 **NEW SECTION. Section 58. Effective date.** [This act] is effective January 1, 2004.

14

- END -