SENATE BILL NO. 98

INTRODUCED BY THOMAS

BY REQUEST OF THE BOARD OF REGENTS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE UNIVERSITY SYSTEM TO ELECT WORKERS' COMPENSATION COVERAGE UNDER PLAN NO. 1, PLAN NO. 2, OR PLAN NO. 3; AMENDING SECTION 39-71-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-71-403, MCA, is amended to read:

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

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

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

on any bonds and notes issued pursuant to subsection (3)(b).

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

(ii) The bonds and notes:

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

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

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

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

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

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

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

<u>(6) As used in subsections (2) and (3), "public corporation" includes the Montana university</u>

system."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0098, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
Authorizes the university system to elect workers' compensation coverage under Plan Number 1 (self-insured); Plan Number 2 (private insurer); or Plan Number 3 (State Fund).

ASSUMPTIONS:
1. Under current law, 39-71-403,MCA, the State Fund is required to provide coverage for all state agencies and all state agencies are required to insure their liability for workers' compensation with the State Fund.
2. This legislation would allow the Montana University System (MUS) to elect insurance for their workers compensation liability from Plan 1, Plan 2, or Plan 3, by directly exempting them from the state agency requirement to insure with the State Fund, 39-71-403(1),MCA.
3. This legislation defines the university system as a "public corporation" for use only in section 39-71-403,MCA. Public corporations, other than state agencies, may elect coverage under Plan 1, Plan 2, or Plan 3.
4. There is no immediate fiscal impact from this legislation. However, fiscal impact will result if the Montana University system elects workers' compensation coverage through Plan 1 or Plan 2.
5. The Montana university system workers' compensation operating results from fiscal year 1992 through fiscal year 1996 are:

OPERATING RESULTS	FY 1996	FY 1995	FY 1994	FY 1993	FY 1992
Premium	$1,715,716	$2,022,852	$1,781,299	$1,670,861	$1,150,386
Paid Losses	($242,266)	($493,134)	($889,318)	($925,919)	($833,092)
Unpaid Losses	($900,864)	($1,108,238)	($725,561)	($374,410)	($477,672)
Operating Expenses	($166,845)	($166,402)	($113,112)	($107,102)	($80,987)
Net Income	$405,742	$255,078	$53,308	$263,430	($241,365)

6. The Montana university system's estimated premium for FY98 is $1,722,193, under rates in effect 7/1/96. Estimated ultimate losses and operating expenses range from $1,289,425 to $1,909,415. The State Fund estimates losses and operating expenses from the Montana university system of $1,599,420 in FY98. It assumed that the MUS would not leave the State Fund until FY99.
7. The Montana university system's estimated premium for FY99 is $1,756,637, under rates in effect 7/1/96, and assumes a 2% premium increase due to payroll growth. Estimated losses and operating expenses range from $1,311,814 to $1,944,203. The State Fund estimates losses and operating expenses on the Montana university system of $1,628,009 in FY99.

Dave Lewis 1-14-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Fred Thomas 1-15-97
FRED THOMAS, PRIMARY SPONSOR DATE

SB 98

8. The estimated FY99 net income is estimated to be $128,628. If the university system should elect coverage under Plan 1 or Plan 2 the State Fund will lose this net income.
9. Effective July 1, 1997 the MUS could begin exploring its options for coverage (outside of the state fund), as authorized in the legislation. Although a modified plan of coverage and claims administration could potentially be developed with the State Fund by July 1, 1997, it would take until July 1, 1998 to finalize any modified plan arrangement outside of the State Fund.
10. Cost savings in the MUS will be accrue to the fund which pays the personal service expense. Based on the funding of FTE in FY96, the estimated allocation of cost reductions would be to the following types of funds: General fund 31.7%, Tuition 26.6% and other non-state appropriated 41.7%.
11. Cost savings generated from this program will be used for the Montana Tuition Assistance program.
12. Preliminary estimates from private insurers indicate that savings in the range of 20-40% of the current of premiums may be expected. The State Fund is required by law to be very conservative in its projections of costs and charge rates that are higher than private insurers in order to cover those costs. As a result a surplus reserve of approximately $231 million has developed over the last 6 years.

FISCAL IMPACT:

Net Impact:

Revenue:

	FY98	FY99
Difference	Difference	
State Fund Net Income	0	($128,628)
Expenditure:		
Montana University System (MUS)		
General Fund 31.7%	0	($111,518)
Tuition 26.6%	0	($93,479)
Non-state appropriated 41.7%	0	($146,330)
Total	0	($351,327)

The amount of the MUS savings will be greater than the net income reduction of the State Fund due to the reduced premium expected from a private carrier. The cost reduction is not available at this time, but is estimated at 20-40% of current premiums. 20% is used in the above calculations.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

State Fund overall premium income will be reduced by the loss of the Montana University System. This loss effects other employers because lower premium volume reduces the State Fund's capacity to spread losses among all employers. Sharing of losses ultimately assists all employers in that losses can be absorbed without an abrupt adverse impact on rates.

Further savings may result in the long term as the MUS has significant incentives to reduce costs through safety and claims management (such as modified duty) programs.

APPROVED BY COM ON LABOR & EMPLOYMENT RELATIONS

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SECOND READING

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