

## 1 SENATE BILL NO. 126

2 INTRODUCED BY G. HERTZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING FUNDS TO MONTANA STATE FUND; AND  
5 PROVIDING AN EFFECTIVE DATE."

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7 WHEREAS, section 39-71-2320, MCA, provides: "All premiums and other money paid to the state fund,  
8 all property and securities acquired through the use of money belonging to the state fund, and all interest and  
9 dividends earned upon money belonging to the state fund are the sole property of the state fund and must be  
10 used exclusively for the operations and obligations of the state fund"; and11 WHEREAS, section 39-71-2320, MCA, also provides: "The money collected by the state fund for claims  
12 for injuries occurring on or after July 1, 1990, may not be used for any other purpose and may not be  
13 transferred by the legislature to other funds or used for other programs"; and14 WHEREAS, section 39-71-2320, MCA, provides: "However, state fund money must be invested by the  
15 board of investments provided for in 2-15-1808, and subject to the investment agreement with the board of  
16 investments, the earnings on investments are the sole property of the state fund as provided in this section";  
17 and18 WHEREAS, in November of 2017, a special session of the Legislature was called to address budgetary  
19 issues in the State of Montana, and the State of Montana, through enacting Senate Bill No. 4, took money  
20 being held in trust for policyholders of the State Fund for the state's own utilization by enacting section 1 of  
21 Chapter 4, Special Laws of November 2017, to have the Board of Investments charge the State Fund an  
22 additional management fee of 3%; and

23 WHEREAS, no other state agency was assessed a management fee of 3% in Senate Bill No. 4; and

24 WHEREAS, the State Fund had already paid management costs to the Board of Investments for fiscal  
25 years 2017 and 2018 in the amount of \$2,085,278; and26 WHEREAS, the effect of charging a 3% management fee to the State Fund was the transfer of \$28.3  
27 million of money held in trust of policyholders and to transfer it to the state general fund; and

28 WHEREAS, the effect of this transfer immediately reduced the amount of funding available for

1 dividends that the State Fund would otherwise return to policyholders and prevented it from reducing rates to  
2 policyholders; and

3 WHEREAS, the State Fund was deprived of the opportunity to invest the \$28.3 million that was  
4 wrongfully transferred from its accounts, thus causing it to lose investment earnings of \$5,280,299 based on the  
5 5-year average rate of return on its invested assets; and

6 WHEREAS, the taking of state funds by charging an exorbitant management fee as mandated by  
7 section 1, Chapter 4, Special Laws of November 2017, represents a taking without just compensation; and

8 WHEREAS, the purpose of this legislation is to address this wrongful taking.

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

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12 NEW SECTION. Section 1. Transfer of funds. (1) By August 15, 2023, the state treasurer shall  
13 transfer \$33.58 million from the general fund to the state fund account created by 39-71-2321 for claims for  
14 injuries resulting from accidents that occurred on or after July 1, 1990.

15 (2) The sum of the transfer represents the amount of the wrongful taking of state fund monies and  
16 lost investment earnings caused by Chapter 4, Special Laws of November 2017.

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18 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2023.

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