

**EAIC Meeting- March 27, 2014
Montana State Fund's Matrix Summary**

Box 1: Under the State Auditor's office would Montana State Fund:			
	Yes	No	Explanation
A. Continue to serve as a Guaranteed Market? (If Yes, B through H are related.)	Y		In addition to continuing to serve as the Guaranteed Market, Montana State Fund (MSF) proposes to continue its current structure as a nonprofit independent public corporation in the Workers' Compensation Act (Part 23). Formation as a mutual insurer under Title 33 would not be needed.
B. Continue to be eligible for federal income tax exemption?	Y		26 U.S.C. Section 501(c)(27)(B) -- (B) Any organization (including a mutual insurance company) if-- (i) such organization is created by State law and is organized and operated under State law exclusively to-- (I) provide workmen's compensation insurance which is required by State law or with respect to which State law provides significant disincentives if such insurance is not purchased by an employer, and (II) provide related coverage which is incidental to workmen's compensation insurance, (ii) such organization must provide workmen's compensation insurance to any employer in the State (for employees in the State or temporarily assigned out-of-State) which seeks such insurance and meets other reasonable requirements relating thereto, (iii) (I) the State makes a financial commitment with respect to such organization either by extending the full faith and credit of the State to the initial debt of such organization or by providing the initial operating capital of such organization, and (II) in the case of periods after the date of enactment of this subparagraph [enacted Aug. 5, 1997], the assets of such organization revert to the State upon dissolution or State law does not permit the dissolution of such organization, and (iv) the majority of the board of directors or oversight body of such organization are appointed by the chief executive officer or other executive branch official of the State, by the State legislature, or by both.
C. Be statutorily immune from dissolution by the State Auditor?	Y		This is one of the requirements for exemption from federal taxes in (B) (iii) (II) above.
D. Be subject by statute to assets diverting to the state in case of dissolution?		N	See C. above.
E. If subject to dissolution (no in Option C), should participation be required in the Guaranty Association (which covers liabilities if the Montana State Fund is dissolved)?			NA, as C is a Yes.
F. If immune from dissolution should there be an early trigger (e.g.400% of risk-based capital requirements) to start State Auditor rehabilitation?	Y		This proposal does not add any additional cost, but provides increased oversight of MSF financial condition and is an option in relation to non-participation in the Guaranty Association.
G. Should there be adverse risk			The cost of the reinsurance creates an impact that warrants further discussion

development coverage (in addition to or in lieu of Guaranty Association)?			with the EAIC.
H. Should there be offsets/benefits for serving as a guaranteed market?			(See Options I. (a) and (b).)
I.			
(a) Should Montana State Fund pay premium tax? (zero or limited or full)			A decision on premium tax- due to the cost impact on policyholders - warrants further discussion with the EAIC.
(b) Should Montana State Fund be the sole provider of state agencies workers' compensation?			Montana State Fund appreciates its role as the insurer for state agencies and is not asserting a position on this question.
J. Should Montana State Fund be treated the same as other insurers for punitive damages purposes – if yes, should both be exempt from punitive damages?			Montana State Fund could remain exempt from punitive damages as a governmental entity serving the public purpose of the guaranteed market; however it remains an issue and warrants further discussion with the EAIC.
K. Should Montana State Fund be under the fraud and prosecution unit of the State Auditor's Office instead of under the Dept. of Justice?			The location of the Montana State Fund fraud prosecution function remains unresolved.
L. Should Montana State Fund have a calendar (not fiscal) budget year?	Y		MSF currently reports on a fiscal year basis; however, Title 33 requires calendar year reporting by insurers. MSF understands that as a "related organization", calendar year reporting can be easily accommodated, but can also be accommodated should MSF be a "component unit" of the state.
M. Should Montana State Fund have tiered rating allowed in statute?	Y		MSF currently has this authority, and it is allowed for private insurers by CSI currently, but is not expressly provided for in Title 33.
N. Should Montana State Fund (& all insurers) use a higher experience-rating trigger? And all have the same code classifications options?	Y		The experience rating trigger can be addressed by CSI and NCCI without legislation. MSF currently utilizes a higher threshold. MSF also has special classification codes in use to meet business needs, for example 0006 for agriculture. Classification code establishment or revisions can be determined by the Classification Review Committee.
O. Should there be a revision in Board of Directors appointments?		N	As it relates to remaining exempt from federal taxes – a majority of the board must be appointed by the government.
P. Should Montana State Fund statutes be in Title 33, not Title 39?		N	MSF enabling laws should remain in Title 39, however, a coordinating section could be provided for in Title 33.
Q. Should Montana State Fund get an automatic certificate of approval?	Y		For MSF as the Guaranteed Market, a Certificate of Authority to write workers' compensation insurance needs to be automatic and continuous in nature.
R. IF Q is No, should certificate of authority be based on filing, other criteria?			NA
S. Should the determination of market concentration include Montana State		N	MSF proposes no change to this determination and that it remain applicable only to Plan 2 as in current law.

Fund?			
T. Should Montana State Fund be allowed discretion for assumed business name?	Y		MSF proposes this option, which would require approval by the Board of Directors and be filed with the Secretary of State.
BOX 2: As an entity only tied to the state through very limited connections? (Almost Private Option):			
	Yes	No	Explanation
AA) Explicitly provide in statute that the state's full faith and credit does/ does not back Montana State Fund?	Y		Under current laws there is no statutory requirement that the legislature would be required to take action in regards to addressing any future solvency issues at MSF. Express language that the state of Montana is not responsible for MSF debts and obligations would make clear the intentions of the legislature in regards to any financial responsibility for MSF. Though it is possible that pressures and issues at a future date could result in legislative action.
BB) Should all Montana State Fund employees continue as state employees? (If YES, skip Options CC through EE.)	Y		(If YES, skip Options CC through EE.)
CC) Should Montana State Fund new employees no longer be part of the Public Employees Retirement System? YES__ NO__			NA
DD) Should Montana State Fund employees no longer participate in the state's health insurance plan? YES__ NO__			NA
EE) Should Montana State Fund pay to PERS an offset of the cost of removing existing/future employees from PERS? YES__ NO__ (If No, should the general fund pay that cost? YES__ NO__)			NA
FF) Should Montana State Fund be under Title 5 Legislative Audit statutes (yearly/biennial financial compliance audits as a component unit of state government)?		N	MSF requests that oversight and regulation not be duplicative. There are additional areas of oversight that would need to be discussed reviewed with the EAIC, (e.g. LAD and CSI rate reviews under current law, LFC budget review, and EAIC functions)
GG) Should Montana State Fund get authority to lease, etc.?	Y		MSF is proposing clarifying legislation for its authority to buy, sell, lease, and mortgage property in its own name. (supports "related organization" status in the state of Montana financial reports and calendar year reporting)
HH) Should Montana State Fund be exempt from state services like e-mail, tort, property-casualty insurance, etc.?		N	
BOX 3: Moving Montana State Fund toward Privatization (requires recognition of certain components in Boxes 1 and 2):			
	Yes	No	Explanation
A-1) -- Amend Montana Constitution to		N	Montana State Fund is not proposing "privatization"; and therefore is not

<p>remove Montana State Fund references within the public investment sections (Article VIII, Section 13). This requires a vote by the people, presumably on a referendum passed by the Legislature. Requires a contingent enactment date only upon positive vote.</p>			<p>proposing any change in the current investment of MSF assets or removal from the Constitution.</p>
<p>A-2) – Determine whether assets are those of Montana State Fund or of the state, or a combination of both, and the associated value.</p>			<p>Under current law, MSF assets are the sole property of MSF to be used exclusively for the operations and obligations of the state fund.</p>
<p>A-3) -- If the assets are considered assets of Montana State Fund, then determine a timeline to remove Montana State Fund assets from being invested under the Board of Investments. The timing would have to allow for transfer of assets to the financial direction of and investment by Montana State Fund. (The Montana State Fund building in Helena is considered an asset of the Montana State Fund and it was completely paid for by Montana State Fund with no bond outstanding.) The Board of Investments will need time to account for a \$1.3 billion or so loss in its portfolio.</p>			<p>See A-1 and A-2.</p>
<p>A-4) –Determine if Montana State Fund is to pay for cost of removing Montana State Fund employees from the Public Employees Retirement System if no longer considered state employees. (Requires an actuarial determination using a formula similar to that developed to allow employees to transfer to a defined contribution plan, 19-3-2114, MCA).</p>		<p>N</p>	<p>MSF is not proposing that MSF employees be removed from PERS.</p>