

## Addenda for Workers' Compensation Discussion at Economic Affairs January meeting

### Added to the Level Playing Field Discussion in the "Competition" paper

Under 39-71-403, MCA, all state agencies are required to obtain workers' compensation from the State Fund. However, the Montana University System is excepted from the definition of state agencies for the purpose of this statute. That change occurred in 1999 at the request of the Board of Regents. An introductory "whereas" clause for House Bill 57 stated that the measure was an attempt to introduce "competition into the University System's workers' compensation coverage as a positive step in controlling costs and in continuing the Board of Regents' efforts to operate as a public business". In the 2009 session, House Bill 126 allowed the Department of Administration to manage the state's workers' compensation coverage (with the legislative and judicial branches allowed to opt out of that management) through one or more policies. The State of Montana spends roughly \$18 million on workers' compensation coverage. In 2009, that amounted to about 9% of Montana State Fund's accident year written premium, according to information from the Department of Administration. The estimate for 2010 is that the State of Montana's premium will comprise about 10% of the State Fund's written premium. As mentioned earlier, the State of Montana does participate in a retrospective rating plan with State Fund. In FY 2008, that option returned \$64,537, contrasted with retention returns of \$879,650 in FY 2006 and \$1,643,973 in FY 2007.<sup>1</sup>

### Montana State Fund Basic Premiums

The minimum premium at Montana State Fund for policies effective July 1, 2009, is \$400. There were 4,535 minimum premium policies in FY 2009.

### Addition to Options for Structure under Regulation

Reports from the State Auditor/Insurance Commissioner's Office is that market conduct examinations done by states of insurers domiciled in their state indicate that the review is of policies and rates by that company only in that state. Thus, behavior in Montana does not appear to be analyzed. The legislature may want to consider specifying that market conduct exams be conducted for Plan 2 (and possibly Plan 3) insurers for Montana policies.

### Market Shares

There are many ways of counting market share. The Department of Labor and Industry in its annual report lists payroll for Plan 1 and direct written premium for Plans 2 and 3. The direct written premium can be converted to estimated payroll, as is the case below.

|                                 | Plan 1 (self-insured)                        | Plan 2 (private insurers)                       | Plan 3 - State Fund                              |
|---------------------------------|--|---|--|
| Share of payroll*               | 28.8%  | 21%   | 50.2%  |
| Share of direct written premium | NA or not part of estimate                   | 31.6%   | 68.4%  |
| Share of policyholders**        | 1.48%<br>(based on estimate of 578 policies) | 22.57%<br>(based on estimate of 8,836 policies) | 75.96%<br>(based on estimate of 29,740 policies) |

\*Payroll as reported to a working group of the Economic Affairs Committee in October 2009

\*\*For self-insureds each employer in the group is considered to have a policy. (Important, for example, for risk-retention groups that otherwise might be counted as one self-insured group.)

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<sup>1</sup>Letter to Laurence Hubbard at Montana State Fund from Budget Director David Ewer, dated September 1, 2009.