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| <p>A) Remove Montana State Fund as guaranteed market; or</p> <p>B) Establish a contract to serve as guaranteed market</p> <p>ROW 1</p> | Nothing limited to just this | <p>As guaranteed market, MSF has some benefits:</p> <ul style="list-style-type: none"> ❖ no premium tax to offset costs of taking all risks; ❖ no income tax (in concert with governor’s appointment of board of directors; ❖ does not participate in guaranty fund. <p>The guaranteed market would have to be replaced by a different residual market model unless contract used.</p> | <p>Most state funds are the guaranteed market.</p> <p>Arizona’s state fund was not.</p> <p>Idaho’s state fund is not the guaranteed market but writes many small accounts. Idaho lets an assigned direct service carrier put a 30% surcharge on Idaho accounts not voluntarily written in the private market.</p> | <ul style="list-style-type: none"> ❖ Puts state in situation where MSF could either become independent, and not the guaranteed market, or be dissolved. ❖ A contract would allow transition of Montana State Fund as an independent. | <ul style="list-style-type: none"> ❖ Disrupts existing system for numerous small or risky account ❖ A contract may confuse liability issues in the future. | 33-1-115, MCA 39-71-2312, MCA 39-71-2351, MCA 39-71-2375, MCA |
| <p>Require Montana State Fund to start paying premium taxes.</p> <p>ROW 2</p> | <p>HB 189 (2005)</p> <p>SB 11</p> <p>SB 11 Fiscal Note</p> | <ul style="list-style-type: none"> ❖ Increases state revenue at the expense of employers who insure with MSF. ❖ Evens playing field with private insurers, who have to pay premium tax. ❖ 2.75% pass-through on premiums may be offset by 8% drop in 2018 rates. ❖ Might exempt premiums paid by state agencies. | | <ul style="list-style-type: none"> ❖ An increase in state revenues (estimated \$3-4 million) because the tax goes to the general fund. ❖ A more apples-to-apples basis for comparing premiums. | <ul style="list-style-type: none"> ❖ Raises premiums for MSF policyholders, including state agencies (all taxpayers) if not exempted. | 33-1-115, MCA 33-2-705, MCA if a graduated tax is proposed 39-71-2375, MCA |
| <p>Require competitive bid for state agencies’ workers’ compensation contracts.</p> <p>ROW 3</p> | <p>SB174 (2013)</p> <p>LC311 (2011)</p> | <ul style="list-style-type: none"> ❖ All (not just some) state agencies ought to be put out for bid to avoid cherry-picking of best accounts. The state could group risk offerings to improve rates for some. | | <ul style="list-style-type: none"> ❖ Competitive bidding may encourage lower rates. State already has retrospective rates through MSF (get money back if experience is low). | <ul style="list-style-type: none"> ❖ If an “all or nothing” approach is not required, low rates for some agencies could lead to efforts to cherry-pick. | 39-71-403, MCA 39-71-2201, MCA 39-71-2316, MCA |

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| Self-insure state agencies' workers' compensation. ROW 4 | No | <ul style="list-style-type: none"> ❖ Would this become a mini Montana State Fund? ❖ Dept. of Administration has bureau for work comp that works on safety. ❖ Montana self-insures health benefits and could do something similar with workers' compensation. ❖ Is a liability vote needed? | <ul style="list-style-type: none"> ❖ Could consider Montana University System model. ❖ Could consider approach used by Montana's Health Care Benefits Division for health insurance. | <ul style="list-style-type: none"> ❖ This approach might more easily classify state as a plan 1 insurer, exempt from premium tax (like other plan 1 insurers). | <ul style="list-style-type: none"> ❖ Runs the risk of becoming subject to political influence in a way that did not bring in required amounts to pay claims into future. | 39-71-403, MCA |
| Remove Old Fund management from MSF and revise related references. ROW 5 | Sort of: SB 232 (2011) | Liability would appear to remain with the state. See 2014 legal memo . | | <ul style="list-style-type: none"> ❖ From MSF's view, moves it toward independence. ❖ Possibly lower cost. | <ul style="list-style-type: none"> ❖ Loss of continuity in claim handling. ❖ Possibly higher cost. | 39-71-201, MCA 39-71-915, MCA 39-71-2321, MCA Repeal: 39-71-2352, MCA |
| Revise appointment of Montana State Fund Board of Directors to allow minority of members to be elected by policyholders. ROW 6 | No | Appointment of a majority of MSF's Board by the governor allows federal income tax exemption. This approach would provide a transition if Montana State Fund were to be allowed to go private but would continue to allow MSF to retain the tax exemption as long as the governor appointees were in majority. | | <ul style="list-style-type: none"> ❖ Change from governor naming all board members to partial election by policyholders sets stage for moving to mutual insurer, in which directors elected by policyholders. ❖ Decreases politics. | <ul style="list-style-type: none"> ❖ Policyholders already represented on board, but named by governor. May set up conflicts among board members. | 2-15-1019, MCA 37-71-2315, MCA (potentially) |
| Move future Montana State Fund employees to a separate pension system. ROW 7 | No See 2017 memo from PERS actuary and 2014 memo. | <ul style="list-style-type: none"> ❖ This would provide transition for some but not all employees if Montana State Fund were to be made private or dissolved in the future. | | <ul style="list-style-type: none"> ❖ From MSF's view, sets stage to go independent. | <ul style="list-style-type: none"> ❖ Cost to MSF over time to offset losses projected by state pension fund. | This would require all new MSF employees, as state employees, to join the defined contribution plan and give current employees an option to join the defined contribution |

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| | | ❖ Additional cost to MSF if defined benefit plan made whole. | | | | plan. New section + amendments. |
| Let MSF obtain health insurance outside of state system for all employees. ROW 8 | No | ❖ The more separation MSF has from the state, the easier to be independent. | ?? | ❖ May level the playing field. | ❖ Removes volume that the state may rely on for spreading health costs. | Possibly exempt MSF employees from definition of employees in 2-18-701, MCA. May have complications. |
| Draft a referendum to remove reference in the state constitution to the state compensation insurance fund. ROW 9 | No | ❖ If Montana State Fund were to be privatized, the reference in the constitution might be redundant and could possibly be removed without harm. | NA | ❖ Removes the constitutional issue from future consideration. ❖ Gives time to get a vote, realign investing options. | ❖ Risks public rejection of change, which could complicate future actions. | Constitutional referendum would be needed to amend Article VIII, Section 13. |
| Consider returning to a cap on specified administrative expenses to address concerns of “how much is too much”. ROW 10 | Was in statute prior to 2001 and passage of SB 145 (section 10) | ❖ If one concern is that Montana State Fund is accumulating too many assets and instead could lower premiums rather than issuing dividends (to most but not all policyholders), then the state could direct a ratio in statute, which it did in the past. This option gives more state control. ❖ Would impact loss ratios. | ?? | ❖ Possible positive impact on a broader range of policies than the dividend policy impacts. | ❖ Removes MSF discretion and lessens its ability to act like a private work comp insurer. ❖ May decrease dividend returns to good accounts. | 39-71-2363, MCA |
| Consider instituting a range of reserve-to-equity ratios. ROW 11 | Drafts available | ❖ Attempts to address concern of “too much” in equity at cost of higher premiums. ❖ Hobbles management. | | ❖ Avoids “pot of money” allure to some legislators. ❖ May lower premiums. | ❖ Risks interference with management decisions to assure solvency. | 39-71-2330, MCA |

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| Combine the reserve-to-equity restraint with a restraint on dividends. ROW 12 | | ❖ If there is a concern that MSF charges higher premiums than necessary to cover risk, then removing the valves by which MSF can contribute to assets or return money to policyholders may affect the MSF approach. | | ❖ May lower premiums for all policyholders, not just those in the better rate tiers. | ❖ Interferes with MSF approaches to premium-setting and its approach to issuing dividends to policyholders with good experience rating. | 39-71-2311, MCA 39-71-2316, MCA 49-71-2320, MCA (Possibly) 39-71-2323, MCA 39-71-2363, MCA (Possibly) |
| Revise how MSF pays commissions. ROW 13 | | ❖ If private insurers feel that MSF has cornered the market on multi-line agents, changes in how commissions are paid may open the market. | | ❖ May level the playing field. | ❖ Regulates MSF as a state entity and does not move toward privatizing. | 39-71-2316(1)(p)? |
| Remove procurement, IT, warrant-writing ties to state services. (See note.) ROW 14 | Over time MSF has separated from various state laws. | ❖ MSF projects \$9.6 million in costs paid to state for various services and \$8.3 million expected costs if handled privately. See p. 3 of chart given EAIC. | | ❖ The more separation MSF has from the state, the easier to be independent. May save some costs. | ❖ May Increase some MSF costs for new systems. | 2-17-505, MCA 2-17-506, MCA 17-1-111, MCA |
| Remove exceptions in 33-1-115 and 39-71-2375, MCA, including: a) Formation requirements; b) Certificate of authority revocation or suspension; | None that retains State Fund as guaranteed market | ❖ a) As a creation of the legislature, MSF has not had to comply with startup or filings that other insurers have done. MSF may have filed similar forms, however. ❖ b and c) Revocation, suspension, liquidation, or dissolution has not been allowed because MSF is a creation of the | | ❖ Any of the changes to these statutes may level the playing field. ❖ Makes regulation more uniform for all work-comp insurers. | ❖ a) If a new filing were done, it could be unclear as to whether MSF is a new creation. ❖ b and c) Creates bifurcated situation in which State Auditor can begin process of | 33-1-115, MCA 33-10-1023, MCA 39-71-2375, MCA For f) Revise or repeal 2-15-2015, MCA re workers' compensation fraud investigation and prosecution office at DOJ. |

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| <p>c) Liquidation or dissolution; d) Participation in the guaranty association; e) Authorization of investments; f) Punitive or exemplary damages; and g) Classification systems and experience rating plans under 33-16-1023, MCA.</p> <p>ROW 15</p> | | <p>legislature. But there is a possibility that revocation, suspension, liquidation, or dissolution could be as a regulatory device allowed pending a decision by the legislature.</p> <ul style="list-style-type: none"> ❖ d) The guaranty association would “rescue” policies if MSF becomes unable to cover its policyholders’ workers’ comp benefits. In the past, private insurers who have chosen not to issue those policies have not wanted to be at risk for covering benefits if the guaranteed provider could not cover the policy. ❖ e) Investment policy for MSF is handled by the Board of Investments, yet insurer statutes say investment policies have to be approved by the Board of Directors. This might be pro forma. ❖ f) Private insurers have argued that MSF as a state entity is exempt from punitive and exemplary damages. MSF | | <ul style="list-style-type: none"> ❖ d) Makes private insurers share risk in a way that might make the private insurers more willing to write policies for the higher risk policyholders that now go into the guaranteed market. ❖ e) A change would require removal of MSF-related reference in the state constitution (leading to easier future changes at MSF, possibly). | <p>revocation, suspension, liquidation, or dissolution but not complete it unless legislature authorizes change.</p> <ul style="list-style-type: none"> ❖ d) Requires MSF to be declared insolvent, which would require legislation and is inconsistent with the guaranteed market responsibilities. ❖ e) A change would require removal of MSF-related reference in the state constitution. ❖ f) Potentially higher costs to either state or to MSF. | |

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| | | <p>argues that the state would be on the hook for these, conceivably, and that the issue is all but moot because neither type of damage is brought very often.</p> <p>❖ g) This subsection may be moot because the state’s classification system has changed so that MSF and private insurers both have similar options.</p> | | | | |
| Other? | | ❖ | | ❖ | ❖ | |

Note: Montana State Fund as a state entity is also subject to open meetings laws and the public’s right to know and observe, to which private insurers are not subject. As this policy decision tool is aimed at keeping Montana State Fund a state entity, there is no leeway for exempting it from the right to know and right to observe provisions.