



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** HB0511

**Title:** Generally revise laws relating to the Montana State Fund

**Primary Sponsor:** Gunderson, Steve

**Status:** As Introduced

- Significant Local Gov Impact     
  Needs to be included in HB 2     
  Technical Concerns  
 Included in the Executive Budget     
  Significant Long-Term Impacts     
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$235,390	\$235,390	\$238,921	\$242,504
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** The bill will alter the Montana State Fund's (MSF) rate making process and the risk-based capital requirements. Montana State Fund cannot determine the fiscal impact of this bill, as described in the following assumptions and technical notes.

HB 511 removes the funding for 2.00 FTE (attorney and examiner) in the State Auditor's Office currently funded by the Montana State Fund. The Commissioner of Securities and Insurance (CSI) began regulating the MSF in 2016 pursuant to SB 123. The MSF is Montana's largest domiciled property and casualty company, with annual premiums of approximately \$160,000,000 (five times more than the second largest domiciled company writing Montana policies). Additional agency resources are necessary to conduct ongoing statutory financial and market conduct examinations of the MSF and to actuarially review MSF's complex annual rate submissions.

### FISCAL ANALYSIS

**Assumptions:****Montana State Fund**

1. Montana State Fund's fiscal year is on a calendar year basis as established in law (39-71-2375(4), MCA). Therefore, within this fiscal note template, fiscal year 2022 reflects MSF's calendar year 2021 starting January 1, 2021 and so on.
2. Montana State Fund is a nonprofit public corporation. All MSF expenses are paid out of policyholder premium revenue and investment income earned on those premiums.
3. Currently, MSF utilizes the National Council on Compensation Insurance's (NCCI) loss costs as a basis for MSF rates. Montana State Fund may deviate from NCCI loss costs based on actuarial evaluation. Montana State Fund determines and files a Loss Cost Multiplier for each of five rate tiers.
4. Under the bill, when a cost factor influencing rates is unclear and difficult to predict, MSF may *not* use a prediction that is more than likely to cover those costs, rather than less than likely to cover those costs.
5. Montana State Fund must apply a "equalized loss cost multiplier for solvency" amount of .35% to NCCI loss costs to 560 individual classifications.
6. In future years, MSF will not be permitted to use MSF loss costs filed even if they are lower than NCCI loss costs. From 2002 to 2017, MSF loss costs were lower than NCCI loss costs. If MSF had been unable to set its rates below NCCI from 2004 to 2015, it would have charged about \$300 million more than necessary. Montana State Fund is unable to predict the fiscal impact this could have on future years.
7. Montana State Fund may not utilize schedule rating to produce a net rate which is lower than the applicable loss cost plus the equalized loss cost multiplier for solvency net premium. This may result in inequitable rates for customers, likely increasing rates for certain policyholders with the best safety records.
8. This bill will be effective 7/1/2021, after MSF has filed its rates for the rate year 7/1/2021 – 6/30/2022.
9. Under the bill, the Risk-Based Capital (RBC) analysis requirements are lessened. Montana State Fund must maintain a Company Action Level 2 times the authorized control level and a Regulatory Action Level 1.5 times the authorized control level. Under current law, MSF must maintain a Company Action Level 4 times the authorized control level and a Regulatory Action Level 3 times the authorized control level. Reducing these levels shortens the early warning for regulator intervention.
10. Montana State Fund assumes that the MSF Board of Directors will continue to evaluate and determine the appropriate surplus (policyholder equity) level to maintain. This level may be above RBC requirements.
11. Montana State Fund will not transfer funds to the State Auditor's Office for two staff positions. The fiscal year 2021 actual staff expense paid by MSF was \$224,608; the fiscal year 2022 estimated staff expense is \$234,885. Montana State Fund will save about \$240,000 each year.
12. The bill requires that MSF not condition payment of dividends on renewal of a policy or contract; dividends have never been restricted for this condition.

**State Auditor's Office**

13. This bill will remove funding for 1.00 modified FTE attorney and 1.00 modified FTE examiner positions, currently provided by Montana State Fund.
14. The State Auditor's Office requests permanent FTE status and related HB 2 budget authority for 2.00 FTE to continue to provide necessary services.
15. Total salaries and benefits for the 1.00 FTE attorney are estimated at \$125,333 for fiscal years 2022 and 2023. A 1.5% inflationary factor has been added to this amount for fiscal years 2024 and 2025.
16. Total salaries and benefits for the 1.00 FTE examiner are estimated at \$83,952 for fiscal years 2022 and 2023. A 1.5% inflationary factor has been added to this amount for fiscal years 2024 and 2025.
17. Operating costs for the 1.00 FTE attorney and 1.00 FTE examiner are \$26,105 for fiscal years 2022 and 2024 (\$13,905 rent; \$700 phone; \$2,000 for state fixed costs; \$4,500 travel, training, and conferences fees; and \$5,000 miscellaneous supplies, dues, subscriptions, fees, etc.). A 1.5% inflationary factor has been added to this amount for fiscal years 2024 and 2025.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b><u>Fiscal Impact: State Auditor's Office</u></b>				
FTE	2.00	2.00	2.00	2.00
<b><u>Expenditures:</u></b>				
Personal Services	\$209,285	\$209,285	\$212,424	\$215,610
Operating Expenses	\$26,105	\$26,105	\$26,497	\$26,894
Transfers	\$0	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$235,390</b>	<b>\$235,390</b>	<b>\$238,921</b>	<b>\$242,504</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$235,390	\$235,390	\$238,921	\$242,504
<b>TOTAL Funding of Exp.</b>	<b>\$235,390</b>	<b>\$235,390</b>	<b>\$238,921</b>	<b>\$242,504</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$235,390)	(\$235,390)	(\$238,921)	(\$242,504)

**Technical Notes:**

**Montana State Fund**

1. Montana State Fund (MSF) is unable to determine how this bill impacts the current tier rating structure and pricing of business. Montana State Fund may be restricted to using loss cost multipliers that prevent equitable rating and pricing.
2. Further guidance is needed from the Commissioner of Securities and Insurance to define how this bill impacts pricing and how the “equalized loss cost multiplier for solvency” would be applied.
3. The changes to the MSF rate making process may require MSF to implement rates that are deemed excessive for certain policyholders. This conflicts with 33-16-201(1)(a), MCA, which states that rates may not be excessive or inadequate, and they may not be unfairly discriminatory.
4. The bill states that MSF may not condition payment of dividends on renewal of a policy or contract. This is already in current law, 33-16-1022(3), MCA.
5. Page 5, line 22, new language has a typo ‘inequitable burden on any employer or class of employers.’

**NOT SIGNED BY SPONSOR**

\_\_\_\_\_  
Sponsor's Initials

3/8/21  
Date

KA  
Budget Director's Initials

3/2/21  
Date