Fiscal Note 2019 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0371	**Title:**	Revise workers' compensation insurance and dissolve the state fund
Primary Sponsor:	Moore, Frederick (Eric)	**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

To open the fiscal Summary spreadsheet, right click on the spreadsheet, select Worksheet Object/Edit. To exit the spreadsheet, click outside of the spreadsheet.

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Expenditures:				
General Fund	$0	($7,310,691)	($7,097,584)	($6,477,455)
State Special Revenue	$0	$200,676,955	$83,631,762	$67,999,207
Federal Special Revenue	$0	$0	$0	$0
Other	$0	$1,385,101,164	($196,201,307)	($190,960,415)
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$1,701,777,740	$32,773,632	$29,319,967
Federal Special Revenue	$0	$0	$0	$0
Other	$0	($212,223,740)	($211,499,632)	($212,412,967)
Net Impact-General Fund Balance:	$0	$7,310,691	$7,097,584	$6,477,455

Description of fiscal impact:

The full fiscal impact on the Montana workers compensation system, the State of Montana and the state fund dissolution trust cannot be fully determined. Some significant items related to revenues and expenditures are noted.

The Montana State Fund (MSF) will be dissolved. All MSF assets will be transferred to the state fund dissolution trust. The Department of Labor and Industry (DLI), and/or residual market plan (RMP or plan no. 4) will be responsible for procuring or assuming all the business operations of MSF including claim management, policy servicing, and payment of all obligations.

MSF's role to act as the residual market carrier or guaranteed market for Montana will be eliminated. An RMP will be created and implemented requiring each plan no. 2 insurer to participate. The RMP may provide that a plan no. 2 insurer may meet its obligation under this section through direct policy assignment, participation in a reinsurance pooling mechanism, or otherwise.

All MSF assets will be placed in the 'state fund dissolution trust' to fund the claim runoff. All income from the trust must first be used for the runoff of state fund claims and, if this income is insufficient, to pay current claim benefits and expenses, trust principal can be withdrawn as authorized. Ultimate liability for any unfunded claim benefits and expenses will be with the State of Montana.

The trust will be reviewed annually and 50% of the principal exceeding a determined required level of principal may be utilized or appropriated as determined by a three-fourths majority of each house.

As of July 1, 2018, MSF will no longer issue workers' compensation insurance policies and MSF policyholders will be required to obtain policies with plan no. 2 insurers or in the RMP. MSF will have to provide for the cancellation of all inforce policies effective July 1, 2018. DLI will be responsible for providing any pro-rata policy refunds and policy reconciliations.

The Commissioner of DLI, in consultation with the Department of Administration, shall dispose of all remaining assets, wind up the affairs of the state fund, and dissolve the state fund.

The Old Fund liability will be funded by the dissolution trust fund managed by DLI.

FISCAL ANALYSIS

Assumptions:

1. Based on the annual statement filed with the State Auditor's Office for the year ending 12/3/16, MSF had $1.66 billion in total assets, $1.14 billion in liabilities, and $526 million of Policyholders' Equity.
2. MSF will cease to collect premium effective July 1, 2018. MSF estimates the lost premium revenue to be: $174.4 million in FY19; $178.7 million in FY20; and, $183.1 million in FY21.
3. There will be revenue from investment income on the declining balance of the state fund dissolution trust. Due to multiple unknown factors this amount cannot accurately be determined. A broad estimate of investment income assuming a 3% return would indicate: $37.8 million in FY19; $32.8 million in FY20; and, $29.3 million in FY21.
4. The MSF dissolution will require a one-time contribution to Montana Public Employees Retirement Association (MPERA) of an estimated $83 million out of state fund assets. This transfer will occur 7/1/2018.
5. MSF will pay claim benefit and loss adjustment expense through June 30, 2018. DLI will be responsible for all payments beginning July 1, 2018.
6. Based on actuarial analysis as of 12/3/16 claim benefit payments and loss adjustment expense on claims that occurred on or after July 1, 1990, are estimated to be: $108.6 million - FY19; $76.5 million – FY20; and, $61.5 million - FY21 as displayed above, however, benefit payments will continue for decades. These amounts will be funded by the state fund dissolution trust.
7. Based on State Employees Protection Act, MCA, 2-18-1205, there could be expenditures for job retraining or other potential expenses related to the dissolution. Ongoing health insurance costs are as much as an estimated $1.8 million for 285 employees laid off (285 current employees * $1,054 current monthly payment * 6 payments = $1,802,340).

8. MSF currently pays State of Montana agencies $2.3 million for various IT, administration, and financial services and fees. These central costs would have to be redistributed to the remaining agencies effective 7/1/18. The impact of this redistribution is not included in this fiscal note.
9. All Old Fund expenditures are currently funded by general fund. Effective July 1, 2018 Old Fund expenditures will be funded by the state fund dissolution trust.
10. The Office of Budget and Program Planning included $7.3 million for FY19 in the Executive budget. MSF staff estimates the FY20 and FY21 Old Fund estimated expenditures to be $7.1 million and $6.5 million respectively. These amounts will be funded by the state fund dissolution trust.
11. Creation, implementation and administration of the RMP will require contracted use of an advisory organization likely to be the National Council on Compensation Insurance (NCCI). The cost for this service is unknown.
12. MSF completes financial reporting on a calendar year basis. The Old Fund financial reporting is on a July 1 through June 30 fiscal period as is this fiscal note template.
13. DLI may determine and distribute policyholder dividends. No assumed dividend has been included in the fiscal note estimate. A dividend distribution will reduce the amount of investment income. MSF Board of directors declared and a policyholder dividend of $35 million on September 16, 2016.
14. The following table does not encompass all expenditures and revenue impacts but attempts to identify the significant items impacted by this legislation.

To open the spreadsheet below, right click on the spreadsheet, select Worksheet Object/Edit. To exit the spreadsheet, click outside of the spreadsheet.

	FY 2018 Difference	FY 2019 Difference	FY 2020 Difference	FY 2021 Difference
Fiscal Impact:				
FTE	0.00	(307.00)	(307.00)	(307.00)
Expenditures:				
Personal Services	$0	($29,017,850)	($30,101,282)	($30,703,308)
Operating Expenses	$0	($21,691,699)	($22,064,772)	($22,322,790)
Equipment	$0	($5,239,776)	($3,599,776)	($508,736)
Benefits	$0	($28,957,801)	($63,409,838)	($75,407,453)
Transfers	$0	$1,663,374,554	($491,461)	($496,376)
TOTAL Expenditures	$0	$1,578,467,428	($119,667,129)	($129,438,663)
Funding of Expenditures:				
General Fund (01)	$0	($7,310,691)	($7,097,584)	($6,477,455)
State Special Revenue (02)	$0	$200,676,955	$83,631,762	$67,999,207
Federal Special Revenue (03)	$0	$0	$0	$0
Other	$0	$1,385,101,164	($196,201,307)	($190,960,415)
TOTAL Funding of Exp.	$0	$1,578,467,428	($119,667,129)	($129,438,663)
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$1,701,777,740	$32,773,632	$29,319,967
Federal Special Revenue (03)	$0	$0	$0	$0
Other	$0	($212,223,740)	($211,499,632)	($212,412,967)
TOTAL Revenues	$0	$1,489,554,000	($178,726,000)	($183,093,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$7,310,691	$7,097,584	$6,477,455
State Special Revenue (02)	$0	$1,501,100,785	($50,858,130)	($38,679,240)
Federal Special Revenue (03)	$0	$0	$0	$0
Other	$0	($1,597,324,904)	($15,298,325)	($21,452,552)

Effect on County or Other Local Revenues or Expenditures:

1.

Long-Term Impacts:

1. Workers compensation claim liabilities are long term obligations, sometimes taking up to 40 to 50 years to close. The total claim liability is susceptible to significant variances and it is common to have development, or increasing costs, due to variables like new treatment options, medical inflation and court cases.

Technical Notes:

1. All MSF assets and interest income on these assets are held in trust, 39-71-2316, 39-71-2320 and, 39-71-2322, MCA, and can only be expended for the purpose the money was collected. Use of MSF assets for old fund liabilities or other purposes is inconsistent with the contractual and statutory limitations on MSF assets.

50% of the amount that exceeds the required principal may be utilized or appropriated for an alternative purpose(s) by a three-quarter vote of each house.

2. In New Section 7 (3), it is unclear as to whether the legislature can appropriate and use 50% of the dissolution trust income prior to complete runoff of all claims.
3. The recitals (Where as clauses) contain inaccuracies and unsupported conclusions.
4. The RMP has the obligation to provide for the orderly and efficient dissolution of MSF including: transition of the MSF policies to private insurers or the RMP; transition of MSF employees to state or private employment or retirement; and satisfaction of all MSF obligations in coordination with DOA (Pages 6-8 of bill draft). Section 2 conflicts with this as it states that the Commissioner may contract for the transition of policies, risks and obligations. This further conflicts with the DLI being required to provide for the orderly dissolution and transfer policies.
5. Section 4 requires the dissolution of MSF upon establishment of the RMP. A conflict exists as the dissolution section is effective on 7/1/2018. If the RMP is established prior to 7/1/18 it is unclear as to when MSF dissolves.
6. MSF has multiple reinsurance contracts dating back to 1993 that require ongoing monitoring and accounting with a reinsurance broker, these adjustments can significantly impact claim liability and recoverables. These contracts include language prohibiting either party from assigning the contract without the prior written consent of the other, which consent may be withheld by either party in its sole discretion.
7. The bill requires DLI to act in the role as regulator and as a substitute for the insurer or real party in interest in claim administration creating a potential conflict of interest. (See Sky Country v. State Compensation Insurance Fund, WCC No. 8809-4913).
8. The bill does not identify funding or appropriations to DLI or CSI to accommodate the additional dissolution and implementation costs to these agencies.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

Fiscal note prepared by: ________________

Agency: ________________

Phone number: ________________