

**CURRENT SITUATION – LEGISLATIVE AUDITOR (September 2014)**

**PROPOSED SITUATION – LEGISLATIVE AUDITOR**

TYPE OF ACTION	KEY POINTS	COST, TO WHOM, TIMEFRAME	TYPE OF ACTION	KEY POINTS	COST, TO WHOM, TIMEFRAME
FINANCIAL AND COMPLIANCE AUDITS. Note 1.	Analysis of prior year’s financial activity to determine compliance with law, as well as GAAP and GASB. (see Acronyms below)	Varies. Charged to Montana State Fund	FINANCIAL AND COMPLIANCE AUDITS	No difference with current situation.	Varies. Charged to MSF. Done annually under current version of 39-71-2361. Would be biennial under Title 5, if statute revised.
PERFORMANCE AUDITS	Prioritized by Legislative Audit Committee to evaluate operational activities. Note 2.	General Fund through LAD budget.  Done occasionally and competes with other Legislative Audit Committee priorities.	PERFORMANCE AUDITS	No difference	Varies  Would be paid for by General Fund through LAD budget.  Done occasionally and competes with other Legislative Audit Committee priorities.
INDEPENDENT ACTUARIAL REVIEWS  See Note 3	Under contract with the Legislative Auditor, an independent actuary evaluates the claims reservation process, the reserve amounts, the current report of MSF’s actuary, and rates to determine if they are excessive, inadequate, or unfairly discriminatory. These reviews begin no sooner than Oct. 1 after the end of a fiscal year.	\$7,500  Charged to MSF.	INDEPENDENT ACTUARIAL REVIEWS	As Legislative Auditor determines necessary.	\$7,500.  Charged to LAD. <b><i>(MSF presumption that the cost is passed along to MSF – change from earlier version)</i></b>
ENFORCEMENT	None. By statute the Legislative Auditor cannot enforce or otherwise influence or direct executive or legislative action to maintain independence and objectivity.		ENFORCEMENT	No difference.	Not applicable.

**CURRENT SITUATION: STATE AUDITOR/INSURANCE COMMISSIONER**

**PROPOSED SITUATION: STATE AUDITOR/INSURANCE COMMISSIONER**

TYPE OF ACTION	KEY POINTS	COST, TO WHOM, TIMEFRAME	TYPE OF ACTION	KEY POINTS	COST, TO WHOM, TIMEFRAME
FINANCIAL EXAMINATIONS	No Montana State Fund review. Currently reviews only workers’ compensation insurers headquartered in Montana but not MSF.	None	FINANCIAL EXAMINATIONS	A review of solvency through analysis of past year’s financial statements under statutory accounting principles with a risk-based focus. Also reviews compliance with law and ability to pay claims.	~ \$205,000 paid by MSF every 3-5 years.  \$1,900 statement fee paid annually by MSF.
MARKET CONDUCT EXAMINATIONS	None of Montana State Fund	None	MARKET CONDUCT EXAMINATIONS	This comprehensive exam includes reviews of operations and management, claims, complaint handling, marketing, underwriting, producer licensing,	\$700,000 at least every 4-5 years.  Charged to MSF. Portions may be done over the same time span.

			MARKET CONDUCT EXAMINATIONS, continued	policyholder service. Follows criteria of National Association of Insurance Commissioners. May do all or part over time. A limited exam focuses on 1 or 2 practices.	These limited exams cost \$25,000 to \$75,000, which would be paid by MSF.
ANNUAL RATE FILING AND RESERVE REVIEW	An independent actuary evaluates the claims reservation process, the reserve amounts, the current report of MSF's actuary, and rates to determine if they are excessive, inadequate, or unfairly discriminatory.	\$75,000 / year from General Fund	ANNUAL RATE FILING AND RESERVE REVIEW	Reviews rates for compliance with Title 33 prior to or in the year of implementation. Rates that are more than NCCI's loss cost filing are "file-and-use". Rates that are less than NCCI's loss cost filing are subject to prior approval and analyzed as to whether they are excessive, inadequate, or unfairly discriminatory. Tiered rates are subject to prior approval as are retrospective rates – generally to assure solvency. The Insurance Commissioner has authority to deny rates in limited circumstances that most likely would not apply to Montana State Fund.	\$75,000 / year either as an appropriation authority that can tap into fees used to operate the State Auditor's Office or as a direct cost on General Fund.
ENFORCEMENT	None. Not regulated.		ENFORCEMENT	Fines and injunctions through a due-process procedure with hearings. License may not be suspended under LC0msf because MSF serves as a guaranteed market.  Moral suasion also would be used.	Varies.

Note 1: The Legislative Audit Division does financial and compliance audits, which are not the same as the financial examinations done by the State Auditor/Insurance Commissioner. There are different accounting analyses with different objectives used by each type of review. The Legislative Financial and Compliance Audits may find problems and can shine a light on inappropriate practices. The State Auditor/Insurance Commissioner under the proposed LC0msf would have authority to examine rates before they go into effect and would examine solvency concerns.

Note 2: In the past 10 years, the Legislative Audit Committee has requested and received performance audits on Montana State Fund's governance (2009) and premium setting (2014).

Note 3: The Legislative Auditor's independent actuary reviews rates after they are in effect while the State Auditor/Insurance Commissioner under the proposed LC0msf would have the opportunity to review rates before they go into effect. The Legislative Auditor's actuary, by statute, can begin no sooner than October 1 following the end of the fiscal year.

Acronyms:

GAAP = Generally Accepted Accounting Principles

GASB = Government Accounting Standards Board

LAD = Legislative Audit Division

MSF = Montana State Fund

NCCI = National Council on Compensation Insurance, the state's workers' compensation rating advisory organization