

CHILDCARE REINSURANCE LEGISLATION

ECONOMIC AFFAIRS INTERIM COMMITTEE
JUNE 2024

BACKGROUND

The Economic Affairs Interim Committee requested a bill draft in May for its committee study topic on childcare and the workforce. The focus of the bill draft request is to work on legislation for a reinsurance association for liability insurance for the childcare industry.

This briefing paper outlines the key elements required for a reinsurance association for the childcare industry and notes policy questions for the committee’s consideration.

REINSURANCE ASSOCIATION

To establish a reinsurance association for the benefit of the childcare industry for liability insurance, the first step is to establish an actual reinsurance association and program. The committee could look at the Montana Reinsurance Association Act in Title 33, chapter 22, MCA. The Montana Reinsurance Association (MRA) was discussed at the March 2024 and May 2024 meeting, and it was noted that the MRA is for disability insurance and receives federal funding, neither of which apply in this case. While the committee can refer to the statutes in Title 33, chapter 22 as a basis, there are several decision points the committee should consider while drafting this legislation.

CONSIDERATIONS AND DECISION POINTS

Consideration	Decision Point
Membership	
The MRA has mandatory membership for all insurers that issue disability insurance in Montana, with some exceptions, such as self-funded multiple employer welfare arrangements, and fraternal benefit societies.	<ol style="list-style-type: none"> Will the Childcare Reinsurance Association have mandatory membership? If so, will it be for all liability insurers licensed in Montana or only insurers who issue liability insurance for childcare providers? <p><i>Note that insurers do not list policies issued by business type on annual financial statements.</i></p>
Payment Parameters	
<p>The MRA includes payment parameters, which means the attachment point, reinsurance cap, and coinsurance rate for the program.</p> <p>The attachment point is the threshold amount for claims costs incurred beyond which a claim may be eligible for reinsurance.</p> <p>The reinsurance cap means the maximum amount of each claim incurred under the program, and coinsurance rate means the rate at which the</p>	<ol style="list-style-type: none"> Should the childcare reinsurance association legislation include payment parameters? If so, how should the payment parameters be determined? <p><i>Note that there is currently no data on the number of liability claims by childcare providers in recent years, nor is there data on the average amount of a liability claim by a childcare provider.</i></p>

<p>reinsurance association reimburses the insurer on a claim.</p> <p>All parameters are set by a board and statute provides minimum and maximum amounts: \$40,000 minimum for the attachment point; 50%-80% for the coinsurance rate; and \$1,000,000 maximum reinsurance cap.</p>	
<p>Association Member Assessments</p>	
<p>Since membership in the MRA is mandatory (33-22-1302, MCA), the Commissioner of Securities and Insurance assesses “each member of the MRA 1.2% of its total premium volume covering Montana residents, from the prior calendar year, regardless of type of license.” 33-22-1313, MCA.</p>	<ol style="list-style-type: none"> 1. What amount of assessment should the CSI impose on member insurers? 2. Will the assessment be on the total volume of premium for liability insurance issued in Montana, or only on childcare liability insurance policies? <p><i>Note: As indicated in the consideration for membership insurers do not break down individual policies issued by business type. Therefore, it may be difficult to impose an assessment only on insurers who issue liability insurance to childcare providers and only on those types of policies.</i></p>
<p>Funding & Transition Clause</p>	
<p>The MRA has a state special revenue account in which all assessments collected are deposited, along with any interest and income earned on the account and any other money from any other source accepted for the benefit of the account.</p> <p>The MRA also has a federal special revenue account in which it receives funds under Section 42 U.S.C 18052, from the U.S. Department of Health and Human Services. The MRA is able to leverage federal funds due to a section 1332 waiver application for state innovation in health insurance.</p> <p>The implementation bill, SB125, included a transition clause, applying an initial administrative assessment on MRA members to act as startup costs for the program.</p>	<p>The Childcare Reinsurance Association can set up a state special revenue account like the MRA to deposit assessments, interest, and any other money.</p> <p>However, since the Childcare Reinsurance Association is not eligible for federal funding, so a federal special revenue account is not applicable.</p> <ol style="list-style-type: none"> 1. Should the childcare reinsurance association legislation include a transition clause, applying an initial administrative assessment on members for startup costs? 2. Should the childcare reinsurance association legislation include additional funding to supplement the state special revenue account? 3. If additional funding is considered, what will be the source of the funding? The committee could look at existing state resources such as the coal trust, marijuana tax revenue, or general fund, or could look at new revenue sources such as a new tax or fee.

4. If additional funding is considered, how much funding should the legislation include?

Note: The MRA receives roughly \$28-30 million annually in federal funding. Additionally, as stated in the consideration for payment parameters, there is currently no data on the number of liability claims by childcare providers in recent years, nor is there data on the average amount of a liability claim by a childcare provider.