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MONTANA STATE FUND
BOARD MEETING
December 10, 2021

The Montana State Fund (MSF) Board of Directors meeting was held December 10, 2021 in MSF's Board Room at 855 Front Street, Helena, Montana 59601 and via Zoom.

Directors Attending

Richard Miltenberger, Clancy
Jack Owens, Missoula - via Zoom
Karen Fagg, Billings
Dexter Thiel, Sidney
Jan VanRiper, Missoula – via Zoom
John Maxness, Helena
Michael Marsh, Billings – via Zoom

MSF Staff Attending

Laurence Hubbard, President/CEO
Kevin Braun, General Counsel
Verna Boucher, Spec Asst to Pres/CEO
Mark Burzynski, Corporate Support VP
Julie Jenkinson, Insurance Operations VP
Will Anderson, Interim Operations VP
Matt Mandell, Interim Operations Support VP
Bob Hark, Actuarial Analyst
Rene Martello, Controller
Darcie Dunlap, Internal Actuary
Kurstin Adamson, ERM Risk Specialist
Patti Grosfield, Internal Auditor
Shannon Copps, Director, ESPM
Al Parisian, Chief Information Officer
Rick Duane, Human Resources VP

Others Attending

Russell Greig, Willis Towers Watson
Troy Downing, CSI
Bob Biskupiak, CSI
Alex Turrell, Willis Towers Watson
Scot Dickerson, Capstone
Ryan Callan, Associated Employers

I. Meeting Preliminaries

A. *Call to Order*
Chair Miltenberger called the meeting to order at 8:32 a.m. He thanked the attendees for participating. He noted that for members of the public not on Zoom, they can submit comment through the live-stream and be recognized as well.

B. *Approval of September 10, 2021 and October 15, 2021 Board Meeting Minutes*
Chair Miltenberger said the first order of business was approval of the Board meeting minutes from September 10, 2021 and October 15, 2021 and asked for a motion.

Mr. Maxness made a motion to approve the September 10, 2020 and October 15, 2021 meeting minutes. Mr. Thiel seconded the motion. Chair Miltenberger called for discussion from the Board and members of the public. There being none, he called for the vote and the motion passed unanimously.

II. Miscellaneous – Laurence Hubbard, President/CEO

A. *Miscellaneous*
President Hubbard welcomed and thanked the attendees. He commended Ms. Boucher for her comprehensive and accurate minutes that truly reflect the actual transactions and discussions of the Board.

He provided a report on the State Employee Charitable Giving Campaign (SECGC) that is conducted each year and that MSF participates in. He noted that for 2021, MSF was once again fully and completely engaged in the fundraising effort and MSF employees gave $38,900 of their hard-earned dollars to those worthy charities. He said in terms of per-capita giving, the Board can be proud of MSF's staff and employees. He thanked Ethan Heverly, Chair of the SECGC Campaign at MSF and Mary Boyle and Melissa Iverson for their efforts and excellent results.

President Hubbard noted in September, Mark Burzynski and he attended the Economic Affairs Interim Committee (EAIC) Meeting to present MSF's approved budget. He noted that the 2022 budget would be presented and approved today and the report to the EAIC was for the 2021 budget approved by the Board in December 2020. He said the fact that it was scheduled later in the year is attributable to the legislative session, audits and other issues that arose of more importance to the EAIC. He noted the presentation is simply information based on a statutory obligation and to answer questions as the committee has no responsibility for approval. He added that there are two MSF Legislative Liaisons who sit on the EAIC - Senator Shane Morigeau and Representative Josh Kassmier. He thanked the Liaisons for the good work they do on behalf of the people of Montana.

Chair Miltenberger, on behalf of the Board, thanked the MSF staff for their generosity in giving, especially at this time of year. He then moved item D. up on the agenda to accommodate the schedules of the guests he intended to introduce.

D. Human Resources and Compensation Committee – Richard Miltenberger, Committee Chair

Chair Miltenberger presented the report of the Human Resources and Compensation Committee by introducing Scot Dickerson, Capstone Search Group and Ryan Callan, Associated Employers. He said that the Board, as it moves into the committee structures, will be moving to avoid repetition of what occurs in the Committee in the full Board meeting. He offered the full Board the opportunity to ask questions and familiarize themselves with the consultants as the Committee moves forward with the CEO/President search process. He said Mr. Dickerson is the President of Capstone Search Group out of Iowa and will be conducting the search activities for the CEO selection process during 2022. He said Mr. Callan from Associated Employers will be acting in concert with the Board as a human resource liaison, in lieu of internal staff, with Capstone Search Group.

Mr. Dickerson said Capstone Search Group is based in Des Moines, Iowa and he has been recruiting nationally, specifically within the insurance industry, for 30 years.

Mr. Callan, a consultant with Associated Employers, said he is based out of Spokane, Washington and he will be serving as the liaison to the Board's search committee that has been assembled and will coordinate with Capstone Search Group throughout this process.

President Hubbard provided clarification that similar to the Board meetings being live streamed for public viewing and input, the committee meetings will be as well. He noted that public comment and input is encouraged and welcomed.

Chair Miltenberger added that he believed the committee structure will increase transparency to the public and stakeholders because in the past, the Board was more time limited with one Board meeting. He said the breakouts will go into greater depth in the functional areas. He said the Finance and Audit Committee, Human Resources and Compensation Committee and Operational Excellence Committee will each be able to take a deeper dive and welcome members of the public to participate, listen, and ask questions.

He called for questions from Mr. Dickerson and Mr. Callan; there were none. He thanked them for joining the meeting.

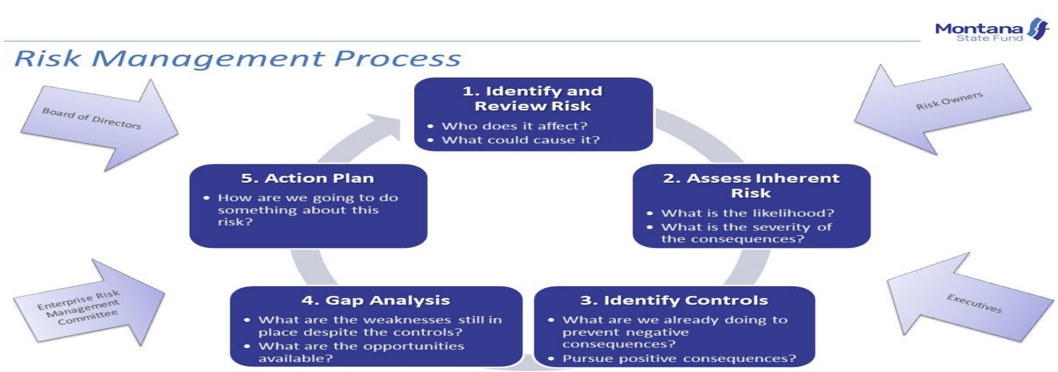
Chair Miltenberger completed the report of the Human Resources and Compensation Committee meeting that was held the day before. He said there were no recommendations from that meeting and the committee took no actions. He said the Committee publicly reviewed the process and noted that he did not want this to become something that is holed up in the committee and becomes secretive. He added that we want all Board members to have a stake in this process; however, it is a lot more efficient to not to have a full-blown Board meeting over every detail. He recognized President Hubbard for his careful planning over his 33-year tenure, 20 years of which as President/CEO, for providing the Board with adequate time to address his imminent retirement with a formal notification coming soon.

B. *Enterprise Risk Management. Kurstin Adamson, Enterprise Risk Management Officer*
Ms. Adamson provided an update on the Enterprise Risk Management (ERM) program. Her report included three aspects of the ERM program,

Risk Culture – MSF's attitude toward risk or how it is viewed by MSF as a whole
Risk Management Framework – the process MSF follows to monitor and treat risk
Significant Risks – the largest risks that MSF faces

She explained the process and management-team structure that MSF has adopted to develop its Risk Culture and manage its identified risks. She noted that the risk culture within MSF is aligned to MSF's mission, vision and values.

Ms. Adamson provided a review of the risk management process and noted that action plans and action items could be a multitude of approaches, such as large-scale projects like PBRI or programs like WorkSafe Champions and Growing a Safer Montana which all have significant risk mitigating values to MSF. She added that the risk actions could also be smaller departmentalized projects that are championed by the risk owner and take less time to complete.



She said ERM is a constantly evolving and growing field of practice and MSF's program has been in place for a decade or so. She said in order to continue that growth, MSF is expanding its perception of risk to view it as something that can be optimized to achieve success. She provided a review of the process that was applied to complete the Risk Management for Success process and noted this provided a very focused approach. She said this process has been in development since the beginning of 2021 and will continue into 2022 and is the natural evolution of an enterprise risk management program.

Ms. Adamson provided a review of the top risks that have been identified and voted on by leadership throughout MSF. She said the risks fall into three categories: 1) Projects and Planning, 2) Internal Operations, and 3) External Environment. She noted the internal operations category has long recognized the now prevalent workforce shortage and MSF has created an employee engagement program to specifically address this issue; specifically within the Operations Department. She noted that MSF has worked on gaining efficiencies in our processes as well as reallocating resources to critical functions. She noted one of the largest threats every organization faces is a data or security breach and MSF has a security team that focuses on protecting MSF's sensitive information and data. She noted that ERM is a continuous monitoring program and is ongoing every year.

Mr. Thiel asked if the risk of not meeting customer expectations could be addressed in the committee structure?

President Hubbard said it could and when development of the committees first began, ERM was discussed as a point of interest for the Finance and Audit Committee: however, that item could be addressed by more than one committee.

Mr. Thiel asked if the ERM Committee kept minutes and could that be provided to him for his review?

President Hubbard said the ERM Committee is charged with ensuring that MSF identifies and prioritizes the risks according to the ERM risk structure. The committee does not solve or develop action plans as that function is appointed to the business owners of the risk. The committee facilitates discussion around the risk and meets with the risk owner to assist in developing action plans.

Ms. Adamson clarified that customer service specific risks have been identified and are owned by leaders within MSF. She said she works with those leaders to assure their risk information is up to date and if the risk reaches a high level, as customer service does, action plans are developed and constantly monitored. She said she could provide Mr. Thiel the documentation from the customer service risks specifically if he was interested.

President Hubbard noted that customer service risk would fall under Julie Jenkinson, Will Anderson and Matt Mandell.

Ms. Adamson further explained how MSF identifies, focuses on, and develops the actions plans on its risks.

Mr. Marsh asked for an update on what changes may have been necessitated by the large increase in the numbers of work-from-home people and how that falls within the ERM risk management process. He said perhaps that could be addressed by the technical people off-line. He also asked that the two or three monthly reports completed by the ERM Committee be distributed to the Board committees to get a view of where the alignment between the Board committee work may be.

Chair Miltenberger said that was a great idea and encouraged President Hubbard to provide those.

C. Operational Excellence Committee – Dexter Thiel, Committee Chair

Mr. Thiel provided a report on the committee discussions from the day before. He noted that Chair Miltenberger provided a review of his vision of the committee's direction and appointed accomplishments. He noted that gaining understanding and expertise and also understanding areas of potential friction were high on the list of goals. He said the scope would be a constantly developing item and noted that the committee spent time discussing who MSF's customers are. He said they further discussed what the contributions of this committee could be and they decided that those would be

- understanding and participate in decision making
- education
- avoid going into the weeds
- development of metrics and understanding of those that already exist
- help to improve the dynamic relationship between interested parties
- the culture that MSF has
- training for customers
- how best to communicate and raise issues

He noted that Ms. VanRiper, again, asked for clarification on small businesses and pressure points and he said the discussion was very insightful. The Committee then discussed prioritizing their interests to set agendas for future meetings. He emphasized that this is unknown territory and the committee is still learning and developing its direction.

Chair Miltenberger thanked Mr. Thiel for the report and commented that he agreed this process was very new and is still developing. He added that having sat on the Board in the past, he recognizes that this business is very complex and requires continual mastery. He said as the Board continues to segment into these silos, certain Board members will gain a degree of expertise in those areas and will be able to ask more intelligent questions.

He added to the Human Resources and Compensation Committee report by noting that he believed the Committee has chosen an excellent partner in Capstone Search Group. He explained that part of the rational for having two different individuals to provide the search function is to get a broad national search. He noted that search firms' reputations tend to be that they lean toward an outside-the-organization candidate and Mr. Callan from Associated Employers will provide the balance to that tendency by providing the Montana side.

D. *Finance and Audit Committee – Karen Fagg, Committee Chair*

Ms. Fagg had not yet arrived at the Board meeting. President Hubbard did note for the Board record that there was an action item in the Finance and Audit Committee on the approval of the internal audit calendars which was presented by Patti Grosfield, Internal Auditor. He noted that the report will be completed when Ms. Fagg has joined the meeting.

III. Reserve Reports – Montana State Fund

A. *Introduction – Laurence Hubbard, President/CEO*

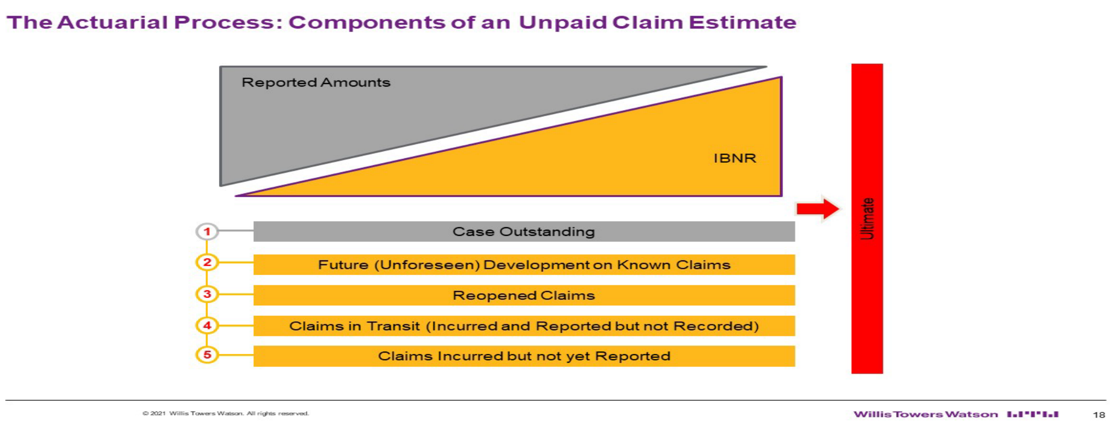
President Hubbard noted that the Board would be determining the level of the unreserved liabilities and loss adjustment expenses (LAE) for incurred claims to include in the CY2021 financial statements. He said the consulting actuaries from Willis Towers Watson - Russell Greig and Alex Turrell - will provide their estimations of the loss and LAE reserves.

B. *Montana State Fund Calendar 2020 Reserve Report – Russell Greig, Senior Director, Willis Towers Watson and Alex Turrell, Director*

Mr. Greig said the objective of Willis Towers Watson's analysis was to provide an aggregate amount of the unpaid claims benefits and include a provision for claim administration expense or LAE. He noted that this analysis encompasses injuries occurring between July 1, 1990 and

December 31, 2021. He provided a review of the methodologies that were used to determine the aggregate amount of unpaid claims benefits and explained how each was applied.

Mr. Greig presented the slide depicted below which shows the components of the unpaid claim estimates. He explained that the reported amounts are where the actuaries look at MSF's data to quantify and analyze the actual development. He said development is defined as how actuarial data changes from being young and immature and how it progresses towards ultimate. He noted that the bottom left of the gray triangle is the youngest accident year 2021 and the top left is the most mature accident year, 1990. The bottom triangle is incurred but not reported reserves. The reported amounts and the IBNR result in the left column which is ultimate losses. He said ultimate losses are made up of paid losses, case reserves and incurred but not reported reserves. There are five components that make up the unpaid claim estimates. The case outstanding, in gray, represents the loss reserves the examiner sets for each claim. He explained the other four IBNR categories and provided examples.



He walked the Board through the methodologies used by actuaries to develop the aggregate amount of unpaid claims and explained that this process was where the art of actuarial analysis met the actuary science.

Mr. Greig reported that over the last 12 months, the ultimate loss estimates on accident years 2020 and prior decreased by $21.7 million. He noted that the ultimate loss estimates for most accident years decreased (2017 increased; 2019 and 2020 were reasonably stable) and the decrease represents a 0.6 percent drop in ultimate losses.

He provided a comparison of the unpaid loss development for MSF and the industry and noted that after 15 years of reserve increases, MSF has been in a period over the last five years of favorable development. He noted that MSF's medical incurred is showing increased consistency across recent accident years and indemnity claim frequency is projected to increase in 2021 after many years of decreases. He said the projected ultimate loss severity trend has been very modest in the latest ten years after adjustments for benefit level and business mix changes.

He said the estimated ultimate losses on accident years 2020 and prior for medical decreased by $21 million because paid and incurred development patterns have continued to stabilize, settlement activity in recent years appears to be shortening the payout tail, and claim payments in the past nine months were almost $10 million below expected. The indemnity estimated ultimate losses on accident years 2020 and prior decreased by $0.7 million. He noted that total loss ratios have been generally stable over recent policy periods although indemnity is trending slightly upward.

Mr. Greig said the total actuarial central estimate of unpaid benefits as of December 31, 2021 is $614.7 million for medical and $159.3 million for indemnity for a total of $774 million before reinsurance. He also provided a low and high estimate and explained that the low estimate is not the best-case scenario and the high is not the worst but this provides a reasonable range which could be utilized by any actuarial analysis and would still be sound and appropriate.

Low Estimate	Actuarial Central Estimate	High Estimate
$694.1 million	$774 million	$885.7 million

He said there is uncertainty embedded in every actuarial and financial model because the aggregate amount of unpaid claim benefits is an estimate. Therefore, there are several contingencies that can impact future analyses. Medical costs may increase more than expected due to medical technology, utilization and higher frequency of severe diagnoses. Frequency and severity trends can fluctuate and benefit changes can result from law changes and/or court decisions and the level of attorney involvement. The expansion and contraction of economic cycles and social trends can have an effect, as well as the duration of injuries. He added that the impact of COVID-19 is an additional contingency that must be considered.

He said MSF's equity exists to absorb adverse reserve development. He said A.M. Best reports that the number one cause of any property and casualty insurance company becoming insolvent is inadequate reserves. He provided an example that if medical inflation is running two points higher for the next ten years versus what is embedded in the analysis, that would translate into another $97 million of medical payments, which equates to 15 percent of MSF's policyholder equity. He noted $1 million of reinsurance recoverable was expected and would be reported on the statutory balance sheet as an asset.

Mr. Greig said the last component is the claims adjustment expense for which they had selected a 15.5 percent provision of future loss payments and that occurs when a claim is first reported. Mr. Turrell explained that Willis Towers Watson's estimates include considerations regarding amounts estimated to be recovered under MSF's reinsurance programs. In addition, Willis Towers Watson establishes an estimated claim administration expense (LAE). The selected provision is 14.5 percent of future loss payment which recognizes that a significant portion of LAE occurs when the claim is first filed.

Mr. Greig provided a review of the overall conclusion depicted below and offered to take questions.

Overall Conclusion as of December 31, 2021

- Unpaid claims benefits & LAE (Actuarial Central Estimate, $millions)

Medical:	$614.7
Indemnity:	159.3
Unpaid claims administration expense:	120.0
Total Gross unpaid benefits & administration	$894.0
Reinsurance:	(1.0)
Total Net unpaid benefits & administration	**$893.0**

- Considerable uncertainty is associated with projections of unpaid workers' compensation claims & LAE
  - Our low reasonable estimate of future liability is $789.2 million
  - Our high reasonable estimate of future liability is $1,022.7 million

Chair Miltenberger called for questions from the Board.

Mr. Theil noted that current job market reports indicate there has been a drop in the labor participation rate over the past few years from 81 or 82 percent to what is currently down to 63 percent. He asked how that factors in on the effects to workers' compensation and noted that past indicators show when jobs become less plentiful, workers' compensation seems to increase a little bit.

Mr. Greig said when there are more open jobs, there should be a lower volume of accidents; however, the issue is that the people who are employed are working longer and are more tired. He said that creates a concern that frequency actually increases, though there is no certainty that it will increase or decrease. He added that he believed it is anecdotal and does not include any estimations for that dynamic in the ultimate losses. He said they do some regression models where they take into account average weekly wages and changes in employment which impacts the inflation rates from one year to the next; however, it is not direct in terms of more or less workers.

Mr. Turrell added that the trend work in regressions illustrates how the unemployment rate in Montana compares to levels of workers' compensation frequency per payroll and average cost per claim to see if there are identifiable trends that can be worked into the projections.

Mr. Greig added that it is part of the modeling yet is indirect, not direct.

President Hubbard added that the actuaries must rely on events of the past to model what will happen in the future. He said current inflation numbers are not reflected in the actuary report until they become past indicators. He noted that he believed that management serves the purpose of providing a glimpse of trends and recommendations looking forward. He said that management has embedded $32 million of reserve strengthening above Willis Towers Watson's central estimate for that very reason. He said management sees things from an operational perspective that causes management to be more conservative, not less. He added that statute requires a more conservative approach when the costs are unknown.

Mr. Greig added that when the rate level discussion occurs at the March Board meeting, the actuaries will be forecasting the rates effective July 1, 2022 and what is expected in terms of the economy will be taken into account at that time,

Chair Miltenberger called for additional questions.

President Hubbard noted that 2017 had adverse development of approximately $4 million from the last report and he asked Mr. Greig to explain what happened for that year?

Mr. Greig said 2017 actual paid losses came in hotter than expected.

Mr. Turrell added that there were a number of large claims in 2017 which continue to adversely develop and have driven that increase.

Mr. Greig provided further clarification that the driver of an accident year being profitable or not is the occurrence of, or lack thereof, of a few large claims. That highlights the skewness of the large claims versus the small easily paid or settled claims.

Mr. Marsh said MSF has had several years of rate decreases with the trending lines for frequency appearing to go up and indemnity trending to go up and asked if we are to anticipate a leveling of the rate decreases or perhaps seeing a rate increase coming up?

Mr. Greig said it is too early to tell; all things being equal if the indemnity frequency continues to trend up, it is very likely that the Board will be looking at a zero to positive rate indication. He noted it has been quite a few years since MSF has had a rate increase. He added that a rate increase could also be driven by the Board and management's decisions to grow policyholder equity.

Mr. Marsh asked if that would create a positive contribution to equity versus a zero contribution to equity as has been the approach the past few years?

Mr. Greig said having a rate increase would also help hedge against increasing medical inflation and overall, that is something the Board will have to decide on.

Mr. Maxness asked about the impacts of COVID-19, such as claims processing, and finding treatments, not just for COVID-19, and the actual COVID claims for workers for MSF versus throughout the country.

Mr. Greig replied that MSF had around 200 COVID-19 claims and incurred losses are at $2 million. He said for this analysis, it is not material. He added that the category of employers having the most impact is in the hospital system where the employees must go to work and in offices where they must go to work and are exposed. On a national level, it does vary based on the industry. He said the vast majority of businesses have not required workers to be onsite and be exposed to COVID-19. He said hospitals are taking a big hit and some retail establishments are impacted; however, the claims are very small due to the shorter duration of missing work and recovery. He noted that California is an outlier because if a person gets COVID-19, it is presumed that it was contracted at work. He said overall for MSF, COVID-19 has not had direct impact on claims; however, there are the indirect incidences of people not wanting to attend medical procedures, such as physical therapy, to avoid possible exposure.

Mr. Turrell noted that the effects of COVID-19 are very specific to industry and region. He said there are some states, such as Florida, where the rates have been much higher; however, their case numbers are much higher as well. He reiterated Mr. Greig's assertion that the effects on MSF's rates are going to be minimal.

Ms. Fagg asked noted that remote work allowing people to return to work sooner during the pandemic was great; however, employers must provide safe work environments on site and asked if MSF was checking to see if their home/work environment was safe as well. She asked if that could mean increased claims in the future?

Mr. Greig said that is happening mostly with office workers and most of MSF's book of business is not made up of office workers. MSF has small shops or businesses and on average 72 percent of MSF's policyholders are less than $4,000 per year in premium. He said, big picture wise, that is being seen country wide; there are trips over power cords, pets and other obstacles. He said some companies are doing ergonomic evaluations of people's workplaces in their homes. He said some companies are providing ergonomic chairs or adjustable desks but that depends on the individual companies.

Mr. Thiel asked President Hubbard if MSF had ever provided workers' compensation for people working from home in the physical trades? He said that would make the insurance company wide open because there is no, safety standard there.

President Hubbard said MSF's coverage for its policyholders is for any employee injured in the course and scope of employment. When an employer instructs employees to stay home and work from there, the employer will be responsible through their workers' compensation policy for any accident that occurs while that employee is on the job. He added that MSF does complete ergonomic assessments of employees' home offices and also provides equipment and chairs to assure the home work environments are ergonomically safe. He said with remote work, the opportunity to return to work is probably better than it ever has been. He added that works well for office and clerical, not lumber yards, loggers and manufactures and construction workers.

Chair Miltenberger called for further questions; there were none. He thanked Mr. Grieg and Mr. Turrell.

C. *Montana State Fund Calendar Year 2021 Reserve Recommendations – Laurence Hubbard, President/CEO*

President Hubbard presented management's recommended loss and LAE reconciliation. He commended Mr. Greig and Mr. Turrell for the new slide that is so illustrative of the process of assessing various methods and approaches to loss reserves that result in an ultimate recommendation.

Montana State Fund

Recommended Loss and LAE Reserves (in millions)

(as of Dec. 31, 2021)

	Willis TW	MSF
Unpaid Losses	774.0	774.0
LAE	120.0	120.0
Gross Losses and LAE	894.0	894.0
Adjustments:		
Reinsurance	(1.0)	(0.3)
Reserve Strengthening		32.1
Other States/EL		4.4
Additional LAE		5.0
Net Unpaid Losses and LAE	$ 893.0	$ 935.2
Total MSF Recommended Losses and LAE		$ 810.1 $ 125.1

Willis Towers Watson Estimates

Low	Central	High
$789.2	$893.0	$1,022.7

December 10, 2021

He explained the management-recommended adjustments depicted in the slide above are more conservative than Willis Towers Watson's central estimate of $894 million. He said there are additional items, such as reserve strengthening, other states' coverage, employers' liability and additional LAE that are necessary to address and include for the Board's consideration when adopting MSF's loss and LAE. Management recommends a slightly more conservative estimation of net unpaid losses and LAE at $935.2 million.

He explained that MSF takes a slightly more conservative internal view of MSF's reinsurance recoverables. He said these are long-term contracts in two different types of arrangements; one is excess of loss which would cover a very catastrophic event and MSF could retain the first $5 million in any given occurrence of liability. This program requires more than one injury in an occurrence. An example would be an earthquake that would hit the Capitol Complex midday and may result in a number of injuries and deaths. The likelihood is very low but the severity, should an earthquake occur, would be very high.

He said management recommends the $32.1 million reserve strengthening above the central actuarial estimate be maintained. He said management sees some headwinds and clouds on the horizon that are naturally expected in workers' compensation insurance. He noted there has been a very long period of stability in MSF's loss reserves and some good development to the benefit of our customers. He explained that this reserve strengthening does not add $32.1 million more; it maintains that loss reserve level above the central estimate at $32.1 million.

President Hubbard said other states coverage allows MSF to provide workers' compensation coverage to customers with permanent sites in other states and Montana. He clarified that the additional loss adjustment expense is the percentage applicable to the reserve strengthening and other states coverage adjustments which is $5 million.

President Hubbard noted that management recommends $810.1 million for loss reserves and $125.1 million for LAE reserves for a combined total of $935.2 million.

Chair Miltenberger provided some clarification for the Board and the public watching with an analogy that the Board is looking at two buckets of money; one that is set aside to pay the claims costs that are anticipated and those that were incurred in the past and that is the $935 million to pay claims. The other bucket is policyholder equity or surplus which are dollars above and beyond those claims costs as an extra security measure that an insurance company is required to have should all the claim cost estimates be wrong.

Ms. Fagg sought clarification that this was not a cost increase for the policyholders, but simply a terminology explanation of where the dollars reside?

President Hubbard said Chair Miltenberger concisely and accurately stated the picture of the two buckets. This is the loss expenses reserve and loss adjustment expense bucket and any additions or reductions from it, would flow to or from equity and has nothing to do with the rate level that the Board will be considering at the March Board meeting. This decision is necessary today to adopt a loss estimate for MSF's financial statements for the December 31, 2021 report. He explained that Rene Martello, Controller, will provide additional information on the financial report before the Board makes their decision.

D. Calendar Year 2021 Projected Financial Report – Rene Martello, Controller

Ms. Martello provided an overview of what the approved loss reserve numbers will look like in the 2021 projected financials. She provided the timeline and explained the progression of the audits and financial statements needed to complete the annual reporting cycle. She explained why the Board is asked to complete this step at this time. She said an update of the status of the audits will be provided to the Board at the March 11, 2022 Board meeting as well as an explanation of the variances between the 2021 projected results provided today and the financial results as of December 31, 2021. She said the complete packet including the final audited financial statement is due to Commissioner of Securities and Insurance (CSI) on June 1, 2022. She noted that at the June 10, 2022 Board meeting the statutory and GASB audits will be available for the Board's review.

She said current year ultimate losses are $113 million which is $7.7 million more than 2020. She said net earned premium also increased in that timeframe which correlates with increased losses. She explained that prior accident year ultimate losses were $3.5 billion which is an increase of $83.6 million over 2020. This adds another accident year to the ultimate losses and is a better increase than normal due to favorable development on improved estimates on some of those prior years. Past history reflects numbers of $100 million or more. She explained that the decreased projected cumulative paid of $2.8 billion results in a net loss reserve of $774 million as of December 31, 2021. She said with management's adjustments the overall recommended loss and LAE reserves are $935.2 million which is $5 million less than the prior year.

She noted that in the third quarter financials, net earned premium was at $158.6 million or $8.9 million better than what was projected for the year due to increased average wages and employment needs. She said loss expense incurred was projected at $21.7 million and underwriting expenses incurred were $12 million better than planned at $36.4 million. With the contingent commission income results being better than planned the overall net underwriting gain is at $12.4 million which is $26.2 million better than what was planned. Interest earning or net investment income earned was $40,000 less; however, capital gains were projected to be at $38.4 million resulting in $82.7 million in net income before dividends.

She said the projections for end of year are expected to see a reduction to the projected net underwriting gain for an overall total of $8.1 million. She said the year-end projection for net income before dividends is $78.4 million before dividends and after dividends will be $18.4 million.

Ms. Martello said policyholder equity was projected to be $609.5 million. She said the reserve-to-equity ratio is projected to be 1.53 which is within MSF's target range of 1.5 to 1 to 2.5 to 1. She said that ratio is very similar to the reserve-to-equity levels over the last six years despite the continued rate reductions and the on-going issuance of large dividends.

She asked the Board to approve the loss and LAE reserves of $935.2 million to include in the 2021 year-end financial results with an allowance to adjust the reserve amount after the year end closes for the actual claim payments made between this Board meeting and the end of 2021. She noted there will be some differences from the estimates based on what occurs before the year end closes.

Chair Miltenberger called for questions or comments.

Ms. Fagg commented that she thought it was important to go on record that the $60 million in dividends in 2021 really reflects that $20 million that was related to 2020; however, due to COVID-19, there was some appropriate conservativism in that year and then it was recommended to be paid in 2021.

E. Adoption of Montana State Fund Calendar Year 2021 Unpaid Loss and Loss Adjustment Expense Reserve Estimate – Laurence Hubbard, President/CEO

Ms. Fagg stated based on the actuary's best estimate of unpaid losses and loss adjustment expenses, adjusted for projected reinsurance recoverable, and for President Hubbard's recommendation for loss reserves for Other States Coverage, Employers' Liability, and reserve strengthening, on an undiscounted basis as of December 31, 2021, I move we adopt $810,079,224 as the unpaid loss reserve and $125,103,387 as the loss adjustment expense reserve estimates for the Montana State Fund financial statements for the year ending on December 31, 2021, to be adjusted for changes based on the actual benefits paid at end of the year. Mr. Owens seconded the motion. Chair Miltenberger called for discussion and public input; there was none. He called for the vote and the motion passed unanimously.

IV. Calendar Year 2021 and 2022 Annual Business Plan – Laurence Hubbard, President/CEO

A. Annual Business Plan Introduction

President Hubbard called upon Shannon Copps to present the status of the 2021 Business Plan and MSF staff to present the proposed Calendar Year 2022 Business Plan.

B. *Calendar Year 2021 Annual Business Plan Status – Shannon Copps, Director of Enterprise Strategy and Project Management*

Ms. Copps provided the Key Success Measures and noted that these were the year-end projections based on available information up to September 30, 2021.

Montana State Fund

Key Success Measures

KSM	2021 Plan	2021 Projection
Net Earned Premium	$149.7M	$158.6M
Loss Ratio	69.2%	61.1%
Expense Ratio	40.0%	31.1%
Investment Income	$42.3M	$73.5M
Net Operating Income (prior to dividend)	$24.7M	$82.7M
Achieve Enterprise Wide Initiatives		

She provided a brief review of the Key Success Measures and noted that all the measures were higher than projected.

Ms. Copps said the three initiatives for CY2021 were all focused on customer service. Work is on-going to replace the policy and billing system with five modern applications to help improve customer service and efficiency. She added that MSF continually looks for ways to reduce Montana's rate of workplace injuries and has two initiatives to work toward that goal.

She said the policy and billing replacement schedule is off track although three of the five applications were launched in November 2021. Support is ongoing to resolve issues that are found as the systems are more fully used in the coming weeks.

Ms. Copps said the WorkSafe Champions project was expected to complete as planned with three options for participation. The safety management consultant works on-site with a policyholder and three dedicated individuals for those workshops and there are 18 policyholders currently working through this option. The second option is for smaller employers to attend central workshops which can include several organizations and there are five companies in these workshops for 2021. She said the team also expects to award up to $3,000 in safety materials to 11 recipients by the end of the year. The recipients are WorkSafe Champion graduates who apply and meet the eligibility requirements and the materials further support the organization's safe work development.

She said the Growing a Safer Montana project is on track and expands MSF's efforts to reach young workers and invest in the safety future of Montana. The team has awarded grants to 38 high school classes and 11 middle school classes. The instructors select from a variety of personal protective equipment based on the class needs. With the addition of these new classes, the program has impacted over 11,000 students with MSF's safety message and equipment over the past five years. The second part of the project is to award scholarships to students in trade and occupational safety and health programs. The applications have been received, the project team is reviewing them and selection is expected in the next two weeks with a ceremony to be held in January.

Ms. Copps said currently the policy and billing project was off track and all other projects are expected to complete as planned.

Chair Miltenberger called for questions.

C. *Calendar Year 2022 Annual Business Plan – Shannon Copps and MSF Staff*

Ms. Copps moved to the Calendar Year 2022 Annual Business Plan and presented the Key Success Measures:

- Generate Total Net Earned Premium of $159.1 million, which includes producing $14.4 million of new premium and achieving 91.1 percent premium retention. This is a very strong retention rate; however, it is consistent with retention patterns over the past few years.

- Achieve 64.9 percent loss ratio with prior period favorable development of $10 million.

- Achieve 42.7 percent expense ratio. This would include loss adjustment expense at 15.9 percent and managing operating expenses to 26.8 percent which includes general expenses and commissions paid to MSF's agent partners.

- Achieve investment income of $50.5 million which includes realized gains.

- Achieve Net Operating Income of $34.9 million before dividend.

Chair Miltenberger called for questions; there were none.

Ms. Copps said there were three initiatives for the 2022 Annual Business Plan that will continue to focus on customer service and safety. She said MSF was a few weeks post implementation for the policy, billing and rating applications and the customer and agent portals are planned to be implemented in 2022. She said MSF will continue to positively impact Montana's rate of workplace injuries with the Growing A Safer Montana and WorkSafe Champions initiatives. She introduced Ms. Jenkinson, Vice President of Operations to present the initiatives.

Ms. Jenkinson said the policy and billing replacement process has been on-going for a number of years and is an effort to replace a very aging platform which places the current policy system at 24 years old. She said it was a very old system with an aging technology that needed to be replaced so that MSF could actually begin to respond to customer's needs in a different way. She said customers and staff were getting tired of hearing "The system won't let us do that." The process began in 2013 with Board support and 2022 will be the start of the eighth year of building this system. She said there have been delays that the Board was informed about; however, this has been a very methodical and well-thought-through process and the point is that at the end there is a quality system in place.

She said the 2022 work plan is to get the portals out so that customers and agents can have the ability to actually service themselves and interact with us in a meaningful way. She noted that the point of this project is to add value to our customers and add efficiency internally so MSF will want to measure how the system is performing in three ways: how much are we spending on the expenses to the system, how efficient are we and is the quality improved. She said they are behind the scenes measuring this in very serious detail, sometimes down to the minute, to look at the current state versus the future state and measuring those items against metrics that end up on our balance sheet and financials. She said the realized values to date include the removal of hundreds of manual steps which is expected to save thousands of staff hours.

Chair Miltenberger called for questions on the PBRI project; there were none.

Ms. Jenkinson then moved onto the safety initiatives. She said Growing A Safer Montana has been around for six years and the point of the project is to focus on young workers to begin to impact the safety continuum in a worker's life. She said this focuses on the next generation of employees and is aimed at the construction and industry trade due to the statistics for the industries. She said in Montana, the incidence rate for injuries in the construction industry is 4.6; however, the national incidence rate is 2.5 which means there is room to improve. The national rate for fatalities for employees aged 16-34 is 3.5, in Montana, it is 7.8.

She said this project is two pronged – including safety grants to high schools and middle schools and scholarships to people who have already made a commitment to people who work in these fields. She noted that the program has been trying to make inroads into the trades and industry programs in our Native American schools and the program has its first recipient at Aaniiih Nakoda College, formerly Fort Belknap College. The recipient is learning to run clean industrial construction sites and learn the proper way to weld and build a home. She said there were 33 applicants this year and 20 scholarships will be awarded in January.

She said the WorkSafe Champions program is on-site with a group of employees from the work site location and the aim is to educate and motivate employees to own safety. Participation can be onsite with the policyholder, by attending central workshops or participating in the WorkSafe Champion Elite program. Since 2008 there have been 757 individual Worksafe Champions through 354 unique policyholder workplaces. The program is consistently reviewed for impact and evolved to add impact to the safety culture of Montana.

Ms. Jenkinson offered to answer any questions; there were none.

Chair Miltenberger called for questions.

Mr. Marsh noted that the 2022 Business Plan Budget reflected the total costs for WorkSafe Champions and Growing a Safer Montana was only $200,000 and said in 2008 the WorkSafeMT program was spending $1 million per year. He asked if management had considered increasing that spend on safety?

Ms. Jenkinson explained that the $200,000 were costs specific to the projects and did not reflect MSF's total spend on safety of $3 million per year.

Mr. Marsh said he did not recall seeing that in the budget and commended staff on that level of investment.

Ms. Copps provided the financial components of the business plan projects for 2022 which is depicted below.

2022 Business Plan Budget

Project	Budget
Policy and Billing Replacement	$1,119,936
Worksafe Champions	$79,106
Growing a Safer Montana	$121,401
Total	**$1,320,443**

Ms. Copps presented the proposed budget and asked the Board to approve the business plan as presented.

Chair Miltenberger called for questions; there were none.

Mr. Maxness made a motion the Board adopt the proposed Calendar Year 2022 Annual Business Plan. Ms. VanRiper seconded the motion. Chair Miltenberger called for discussion and public input; there was none. He called for the vote and the motion passed unanimously.

Chair Miltenberger called on Ms. Fagg to present the update on the Finance and Audit Committee meeting.

Ms. Fagg reported that the Finance and Audit Committee had met the day before. She said Ms. Grosfield, Internal Auditor, provided a report on the Legislative Audit Division's (LAD) 2020 audit. She reported the audit found no comments or recommendations and was very clean. She congratulated the entire MSF team. She said the Eide Bailly audit team will soon begin its audit in both on-site and off-site sessions and the LAD will also begin another audit in March or April of 2022. She said there will also be an audit by the Commissioner of Securities and Insurance (CSI) that will begin in 2022. Those costs are noted in the budget and the CSI audits occur every three to five years. The Committee reviewed the fourth quarter internal audit activity which included dividend processing, public employment disclosures and support of on-going audits. Ms. Grosfield shared the 2022 Internal Audit Plan and Ms. Fagg noted she will be asking the Board to approve that plan as presented though changes can be made during the year if the need arises.

She said the Committee received a reinsurance overview and update from Kent Schlosser, MSF Financial Analyst, that provided review of the excess of loss and aggregate stop loss (ASL) programs as well as catastrophe coverages and unanticipated claim losses covered by the ASL coverage. She said Mr. Burzynski reported further on the aggregate stop loss coverage which has been in place since the New Fund began but has now done its job of providing the adequate coverage necessary. The MSF Reinsurance Committee has made the decision to discontinue ASL coverage going forward.

Ms. Fagg said the budget presentation was excellent and the information in the Board book was very detailed and covered all the line items. She noted that she received a copy of the budget book and offered to share her copy or have President Hubbard supply a copy to any Board member interested in seeing that. She noted that the budget process goes through a number of rigorous reviews and final review and approval from the President so that by the time the Board sees it, it has been completely vetted. She said it is also important that the Board vet the budget as well. She said Ms. Martello explained the difference between expenditure-based budgeting versus the expense-based financial reporting which is what the auditors will look at and report to the Board.

She noted that Mr. Burzynski would be providing a budget summary; however, there were a couple of items she wished to highlight. She said the budget calls for a total expenditure of $177.3 million with $111.7 million for claims benefits payments. $63 million is budgeted for operational expenditures with $2.1 million in projects. She said there was a reduction of 12.5 FTEs which is significant. She said she thought some of that tied back to the billing system as MSF is more efficient using that system that translates into a reduction in actual hours that will be required. She added that the budget still included four percent vacancy savings which is over and above the 12.5 FTE reduction and she congratulated staff on achieving further efficiencies while saying there will be vacancy savings. She said there is a four percent merit increase in the budget which seems reasonable based upon the information from Korn Ferry as well as the knowledge that wages are increasing throughout the country. She said some additional changes are commissions which are projected to increase due to some growth in new business and also the transition period with how commissions are paid. She said CSI will conduct a Market Conduct Exam which is an increase of $500,000 but that will only occur once every three to five years.

Ms. Fagg said she really focused her attention on the expense ratio because there is a large increase which was projected at slightly over 31 percent for 2021 and for 2022, it is projected to beat 42.7 percent. She said the biggest issue is the new billing system will have to be amortized beginning in December 2021. This adds more points to the expense ratio and had the amortization begun in January 2021 it would have added 4 points to the expense ratio which would have increased the expense ratio for last year to 35 percent. She said the billing system adds four points, the commissions add almost a full point and other miscellaneous changes add to the expense ratio. She said the Committee feels that the budget is appropriate and they approved the internal audit and budget at the Committee level and recommended the Board, as a whole, approve also.

Chair Miltenberger called for questions; there were none.

Ms. Fagg moved to approve the Calendar Year 2022 Internal Audit Schedule. Ms. VanRiper seconded the motion. Chair Miltenberger called for discussion and public comment; there was none. He called for the vote and the motion passed unanimously.

V. Calendar Year 2021 Budget Update and 2022 Budget Request – Laurence Hubbard, President/CEO

A. Budget Introduction

Chair Miltenberger asked Ms. Martello to present and keep the presentation as brief as possible.

B. 2021 Third Quarter Update and Budget Amendment Request - Rene Martello, Controller

Ms. Martello said overall the budget is projected to come in under by about $5.6 million due to variances in the claim benefit payments and operational expenditures. She noted that operational expenditures were expected to be under by more than the projected $2.7 million; however, that was transitioned to cover the capital expenditure and over budget issues on the PBRI project. She said the higher variances were in seen in the PBRI project being $2.2 million over, other projects being $2.4 million under, and safety-related services were under by $201,472. She said the travel and meeting expense account was under by $312,333 based on the projection assumption that travel would get back to normal in 2021 which did not occur.

Chair Miltenberger called for questions; there were none.

C. 2022 Budget Request – Mark Burzynski, VP Corporate Support

Mr. Burzynski noted that significant detail was shared in the Finance and Audit Committee and he would provide only a high-level report for this budget request.

2022 Budget Request

Claim Benefit Payments	2022 Budget	2021 Budget	2021 Proj - 3Q	2022 Budget change from 2021 Proj - 3Q
Indemnity	$39,413,434	$38,334,390	$37,082,607	6.3%
Medical	72,336,129	69,934,675	68,228,465	6.0%
Total Claim Benefit Payments	**$111,749,563**	**$108,269,065**	**$105,311,072**	**6.1%**
FTEs	**293.50**	**306.00**	**306.00**	**-4.1%**
Operational Expenditures				
Personal Services	$32,836,844	$32,802,250	$31,512,843	4.2%
Commissions	11,808,285	10,696,141	10,517,198	12.3%
All Projects - excludes personal services	2,101,981	6,624,614	6,851,100	-69.3%
All Other Operational Expenditures	18,776,791	17,323,917	15,830,646	18.6%
Total Operational Expenditures	**$65,523,901**	**$67,446,922**	**$64,711,786**	**1.3%**
Total MSF Expenditures	**$177,273,464**	**$175,715,987**	**$170,022,858**	**4.3%**

He said the projected increase in claim benefits payments is due to new business growth within MSF's book of business, improved medical access post COVID-19 and some anticipated high-value settlements for 2022. He mentioned that the parking space rental for the year is $328,000 per year and there are budgeted upgrades to the security system, the fire panel and alarm system and the elevator drives and the audio/visual equipment. There is also $50,000 budgeted for an assessment of multi-tenant use of the building.

Mr. Burzynski further explained the expense ratio which reflects the $6.2 million amortization of the policy and billing system which will be over a four-year period of time though the system is expected to last 15 to 20 years. That reduces the expense ratio from 42.7 to 38.7. The discontinuation of the ALS reinsurance coverage reduces the expense ratio another two to three points and the Market Conduct Exam is worth about a third of a point. He added the commission payment transition is worth about three quarters of a point and the PHS/PBRI transition consulting expenses are worth about one point. Overall, the expense ratio is very competitive with what is occurring in the market. He said many of MSF's competitors operating in Montana are between 38 and 42 percent and he said he believed MSF could make the case that it is between 34 and 36 percent.

Chair Miltenberger called for questions.

Ms. VanRiper asked how the reduction in FTEs, which is good for the bottom line, was impacting existing staff? Are they feeling squeezed or are there other developments and is there some way we could get a read on that?

President Hubbard noted that half of those reductions come from the Information Technology Department and that was in anticipation of moving from two technology platforms this year to one. He said there will not be the need to have duplicate support efforts. He added that there were a number of vacancies in that area for a number of years that have been difficult to fill and the decision was made to use consultancy resources instead to get the project work done. In other areas, the executives have determined that the work level is not too much for existing staff and workload can be managed with these reductions.

Mr. Burzynski noted there were a number of reductions in his department and said the purchase of a new inserter has provided improved automation that has eliminated the need for manual hours. He said with some of the equipment in that department, the IT staff is working on suggestions and ideas on how that unit can become more productive using machine learning, artificial intelligence, etc. He also added that external temporary resources have been put in place should the need arise to ease transitions over from PHS to PBRI. He also said he believed this created career opportunities for other people.

Ms. VanRiper asked to the extent that FTEs are replaced with contracted services, she said she would like to get a handle on that as it goes on perhaps through the Operational Excellence Committee.

Ms. Fagg said the Committee also addressed this issue in their discussion the previous day and in the Board book there is a detailed listing of which category positions were not being not filled. She said we are not eliminating people - this attrition was through open positions or retirements. She said some of these positions have been open for five years and it was pretty obvious that we were not going to be able to hire people into these positions; however, if the services can be completed by consultants, that is very appropriate. She said she was satisfied that it had been a very thorough and thoughtful analysis to determine this was the best approach.

Mr. Thiel asked, do you have a lot of issues with employees such as positions that you wish could be filled but are not? Is MSF experiencing the same talent desert everyone else is experiencing?

President Hubbard said MSF is having some issues finding qualified candidates for a number of positions, particularly the highly professional or technical positions such as IT positions. He said those have been a challenge for a number of years. He said living in Montana is not always the choice for everyone and over the years there have been out-of-state hires who spend one winter here and return to where they came from. He said MSF keeps demographic data on turnover, voluntary turnover, and why people are leaving and where they are going. He noted there is still competition for our employees locally and now, with remote deployment offered more widely, there is a risk MSF will lose very talented people due to that increased flexibility environment.

Mr. Thiel asked if there was an organization to help MSF find employees?

President Hubbard noted that MSF has an internal recruiter, Michele Evans, and said she is excellent and leverages all of the social media platforms and everything available to search for and secure talented employees.

Mr. Duane reported that MSF has not seen near the turnover that a lot of organizations have seen. He said MSF’s target is to not have voluntary turnover of more than ten percent and MSF’s overall turnover which is voluntary, involuntary and retirements is 9.48 percent. He said the voluntary turnover is less than 5 percent and the time to fill positions is 66 days while the standard is around 75 days. He said remote work has helped MSF and added that MSF continues to be challenged but he believes the good culture that MSF offers has helped in recruitment.

Chair Miltenberger called for additional questions; there were none.

Mr. Maxness made a motion the Board approve the proposed Montana State Fund budget for Calendar Year 2022 totaling $177,273,464, as follows:

- *Total Operational Expenditures of $65,523,901, including the costs that are reimbursed to Montana State Fund for Old Fund administration; and*
- *Montana State Fund Benefit Payments of $111,749,563.*

The President is to retain and may utilize the prior direction from the Board to adjust expenditures among first level expenditure categories, and may increase staffing, as long as the total approved budget amount is not exceeded. Ms. Fagg seconded the motion. Chair Miltenberger called for discussion and public input; there was none. He called for the vote and the motion passed unanimously.

VI. Insurance Operations Support – Matt Mandell, Interim VP, Operations Support

A. Construction Industry Premium Credit Program Approval

Mr. Mandell provided historical background on the development and implementation of the construction industry premium credit program effective July 1, 2022. He explained this program was developed in the mid-90s and helps right size premium for construction industry employers that provide higher-than-average hourly wages. He said wage rates vary from employer to employer; however, workers' compensation premium is based on total payroll. Without this program, construction employers who pay higher-than-average wages, could pay higher workers' compensation premium. This program is adopted within Montana by all carriers and eligible class codes are determined by NCCI. He said NCCI uses an algebraic formula for the construction credit program; however, MSF has found the use of the table depicted below to be more transparent for our policyholders. The table provides virtually the same results as the algebraic formula used by NCCI and is included in MSF's annual filing with CSI.

Construction Industry Premium Credit Program
Applicable to policies effective July 1, 2022 to July 1, 2023

Average Hourly Wage	Credit Percentages
$26.76 or less	0.00%
$26.77 to $27.12	0.32%
$27.13 to $27.54	1.03%
$27.55 to $28.02	1.82%
$28.03 to $28.58	2.71%
$28.59 to $29.23	3.70%
$29.24 to $29.98	4.79%
$29.99 to $30.86	6.00%
$30.87 to $31.88	7.33%
$31.89 to $33.06	8.78%
$33.07 to $34.43	10.33%
$34.44 to $36.02	12.00%
$36.03 to $37.87	13.77%
$37.88 to $40.02	15.63%
$40.03 to $42.52	17.57%
$42.53 to $45.43	19.56%
$45.44 to $48.81	21.59%
$48.82 to $52.73	23.63%
$52.74 to $57.29	25.66%
$57.30 to $62.59	27.66%
$62.60 or more	29.61%

He added that this program is based on the state's average weekly wage, so the wage ranges and credit percentages vary slightly from year to year. In policy year 2021, 611 policyholders took advantage of this credit with an average credit of 7.5 percent. He offered to take any questions and asked the Board to approve the table for new and renewal policies with an effective date on or after July 1, 2022.

Chair Miltenberger called for questions and asked if a similar program was in place today?

Mr. Mandell said yes this program is already in place; however, the new table increases the hourly wage ranges to match the changed state's weekly range. This change is fairly large due to the eight percent average weekly wage increase that was adopted a year ago.

Ms. VanRiper asked if there was any correlation between the average hourly wages paid by a particular employer and the size of that employer. Is there a trend where smaller employers are paying lower wages versus larger employers or not?

President Hubbard said he did not have the data to answer that; however, he said the larger contractors do tend to pay higher average wages in the construction industry.

Mr. Thiel added that in the construction industry the larger organizations have a lot more administrative people who make bigger paychecks though they have less risk than the actual construction workers.

Ms. VanRiper said she would like to delve into this more and noted that she understands this is a legislative requirement; however, she said she was trying to keep tabs on where small employers are less able to take advantage of certain things. She asked that information be culled out about how this impacts small versus large employers.

President Hubbard said the challenge would be that MSF does not collect individual employer hourly rates. The premium collected is payroll by classification and it is not broken out by individual employee salary. He said we can follow up and reach out to DOLI to see if they collect anything on hourly rates by industry group or size or number of employees. He added that MSF does send out a construction credit survey that the employer fills out that provides details about the wages they pay to their employees; however, he was unsure if that survey included the size of the customer or number of employees.

Mr. Mandell added in order to locate the number of employers that took advantage of the 2021 Construction Credit program, he received a large spreadsheet and manually added up the number. He said the spreadsheet reflected a good mixture of large and small policyholders that took advantage of the program in 2021.

President Hubbard said the question was, how many of those smaller employers pay higher wages?

Mr. Mandell said if they are in the program, they must pay the higher-than-average wages.

Ms. Fagg said she would guess the largest construction firms are self-insured and that data would not be available. She said wage pressure and union wages factor into this as well as the current pressure to pay higher wages everywhere.

President Hubbard said to add context, out of 25,000 policyholders only 611 apply for this credit program.

Mr. Thiel said that a small company is restricted because they do not have a lot of people that do this and frequently the owner is trying to do his paperwork at night and bid his jobs during the day and his poor wife is roped into doing way more than she ever wanted to do. Those smaller employers are not necessarily exposed to something like this and the larger more sophisticated organizations are able to take advantage of these. He added that this is a good program because it gives discounts to the people who should have the least amount of claims. He said the question is whether it is filtering down to everybody.

President Hubbard clarified that this program must pass actuarial muster and must be filed with CSI. It cannot be excessive inadequate or unfairly discriminatory, so there are tests and standards that must be met to achieve these calculations. He invited Ms. Dunlap to offer input on the construction of the table.

Ms. Dunlap reported that this program is filed by NCCI every year and MSF must adhere to that program, which means NCCI sets the amounts, the rates, and the criteria. MSF creates a table that follows the formulaic approach rather than using the actual formulaic approach. She said MSF is adhering to NCCI's definition of the program. She said other states have a very similar program to Montana's.

Mr. Marsh said with the huge influx of high-tech business and workers in the state of Montana, this might be a marketing opportunity for us to get to some of that high wage, low exposure business. He said he wondered if NCCI had a similar program parallel to the construction industry for the high-tech industry and would we consider such a thing?

Chair Miltenberger confirmed that staff was indicating there was not a similar program for high-tech. He said it was a good question but not available at this time, though it could be a potential marketing opportunity.

President Hubbard said there is an overall volume discount program where the larger the employer, the more employees they have, and the more payroll they pay, there is a volume discount available in our rating plan as well.

Ms. Fagg said those are also different types of classification; high-tech is in the office whereas construction is one of the highest classifications with one of the highest rates.

Ms. Fagg made a motion the Board adopt the plan of credit percentages for Montana State Fund's Construction Industry Premium Credit Program, for new or renewal policies, with effective dates of July 1, 2022 to July 1, 2023, as proposed by Montana State Fund management. Mr. Owens seconded the motion. Chair Miltenberger called for discussion, questions or comments from the Board and the public; there were none. He called for the vote and the motion passed unanimously.

B. Policy Fees – Matt Mandell

Mr. Mandell stated with the implementation of the policy and billing center, new fees and charges are recommended for new and renewal policies as of March 1, 2022. He said this will require a mid-year filing with CSI for approval. He explained that in the past the system would not allow for the creation of charges or fees; however, the new system allows much more flexibility. The implementation of the new system also offered MSF an opportunity to review processes, procedures and charges as well as identify industry best-practices and find new efficiencies.

He said research showed that MSF was and is an outlier in charging for late payments, non-sufficient funds or waivers of subrogation. It was also determined that MSF was out of alignment with NCCI's rule on the audit non-compliance charge which was significantly less than NCCI's recommendation. He said the proposed charges and fees were:

a) **Late Payment Fee of $25 assessed after a seven-day grace period** – this encourages timely payment of premium, it is common industry practice, and it offsets the cost of pursing the payment. He said this fee is being proposed to encourage a policyholder's behavior to change and is not intended to be a revenue stream.
b) **Nonsufficient Funds Fee of $30 assessed at the time of payment** – this encourages use of a valid form of payment, is common in the industry and offsets the costs of pursing the payment. He said this is not a common occurrence and in 2019 there were only 172 instances and 151 for 2021. He said the charge is assessed at the time the payment is removed from a policy after the policyholders financial institution dishonors the payment. CSI has determined that this charge is not premium and therefore would not have to be included with our filing.
c) **Audit Noncompliance Charge** – MSF currently has this charge; however, it is out of compliance with the NCCI rule. MSF can currently add ten percent of the estimated premium when it has been determined that a policyholder will not comply with an audit request - NCCI recommends 100 percent of the estimated premium be charged. He said this is a very infrequent issue for MSF and since January 1, 2018 there have only been 61 policies that have been cancelled for audit non-compliance and of those 49 later complied and were reinstated. This charge is manually applied and once compliance is met, the charge is refunded on the policy.
d) Waiver of Subrogation Charge $100 per waiver for Limited/Specific; $200 for Blanket - He noted that waivers of subrogation are common in the marketplace and MSF is truly an outlier in not charging for these waivers. He said MSF currently has a total of 2,324 waivers of subrogation on 968 policies. He said about 2,100 of those are specific waivers and just over 200 are blanket. The subrogation waiver is built into the NCCI premium algorithm, the amount of the charge is up to the discretion of the carrier and that would need to be filed with CSI. This brings MSF into alignment with industry best practices and offsets risks that MSF assume in waiving third party recoveries. The charge is applied to the policy at the time the endorsement is added at the request of the policyholder.

Mr. Mandell requested that the Board approve management's proposed fees.

Chair Miltenberger asked for an example of a waiver of subrogation.

Mr. Mandell explained this is often required in contracts with construction policyholders and it essentially means MSF will not pursue recoveries through another form of insurance. The $100 fee is on a specific contract and the $200 fee is on a blanket contract. He said should there be a claim that could potentially have a third-party recovery and the waiver of subrogation does not exist, MSF will send out a notice to the injured worker to notify them that we may be able to recover some money if they were to receive it on this claim and lets them know that possibility exits. That occurs most commonly in a car accident situation, where the potential does exist for MSF to recover some money that has been paid out on that incident.

Chair Miltenberger said the proposed fees do not seem like enough money.

President Hubbard said in Montana, subrogation is very difficult in workers' compensation because of a series of Supreme Court decisions that require that an injured worker be made whole for all of their damagers before a workers' compensation insurer can claim subrogation. He said that is a highly unique provision and interpretation for Montana. This waiver proposal is not much because the chance of subrogation is very difficult.

Mr. Thiel indicated that he had problems with MSF's audit and asked for further clarification on the audit noncompliance charge.

Mr. Mandell said a very small number of policies are impacted by this charge.

President Hubbard said most customers send in payroll reports which is a voluntary audit. He said MSF's auditors can only audit about a quarter of those received. He said MSF uses the audit system in large measure to assure customers are paying the correct level of premium. When an employer refuses to allow us to audit their payroll, it causes us to ask why? Recently, there was a sizable dividend returned by a customer that did not comply with an audit. The customer was more willing to walk away from a sizable dividend than to allow MSF to do a payroll audit. That situation is very few and far between yet illustrates why this charge is necessary to encourage audit compliance.

Mr. Thiel said he understood that; however, he, like Ms. VanRiper did not want to see small companies get in a tight spot because sometimes MSF's auditors make mistakes too.

President Hubbard said every customer should be treated in the same way - large customers do not deserve more penalties for audits than small customers or vice versa. He noted that the charge is removed when the policyholder does comply, so this is simply incentive to comply.

Chair Miltenberger called for additional questions.

Ms. VanRiper asked if the audit could be conducted by comparing the payroll reports to the tax reports?

President Hubbard said MSF does not have access to tax reports. He added that for workers' compensation, overtime wages are charged for premium purposes at straight time rate and MSF must determine what is overtime versus regular time wages. He also noted that often, MSF gives out more credits in audits than collections – the audit process is not a revenue-generating program, it is an educational program to teach people how to properly report their payroll. The audit compliance charge is intended for a very narrow group of employers who refuse to comply with an audit.

Ms. Fagg asked if the payroll audit is purely that, not the entire financial audit of the whole company.

President Hubbard said that was correct.

Mr. Marsh indicated that he was having a difficult time digesting the waiver-of-subrogation charge in a state that intentionally allows no subrogation. He said, in ten years, he has not seen any subrogation recovery and is wondering why MSF would be charging for that.

President Hubbard said in most cases he would agree with Mr. Marsh; however, most carriers, as opposed to participating in the third-party recovery, elect a 50 percent subrogation entitlement automatically. He said the value of the waiver of subrogation comes into play in those cases where a carrier may decide they wish to participate in the cost of recovery that the injured worker takes on. He said that has not been ruled on by the Montana Supreme Court so there is still a legal right that has value from a carrier perspective which means there should be some consideration for that risk transfer that goes entirely to the carrier at that time.

Mr. Mandell added that each waiver takes staff time and resources to produce and complete such as one policy that had over 100 specific waivers. This fee will reduce staff time and find some efficiencies through this process as well.

Mr. Marsh said he fails to see how charging $100 for each waiver of subrogation would increase staff efficiency; however, leaving that aside, he still did not see how we could get around the made-whole doctrine and why we would charge for something we may have a legal right to but, based on his ten years doing business in Montana, he has not seen a recovery yet.

Mr. Mandell reported that on average MSF has recovered about $45,000 per year through subrogation.

Ms. VanRiper asked if MSF had a case where they believed there was a substantial possibility of recovering some subrogation, would MSF decide not to waive?

Mr. Mandell said that would not be an option because the waiver takes place on the contract which occurs before the injury claim would actually occur.

Mr. Maxness made a motion the Board adopt the following proposed fees and charges for new and renewal policies with an effective date on or after March 1, 2022:

Late Payment Fee: $25;
Nonsufficient Funds Fee: $30;
Audit Noncompliance Charge: One-times the policyholder's estimated annual premium; and
Waiver of Subrogation Charge: Limited waiver $100, Blanket Waiver $200.

Mr. Owens seconded the motion. Chair Miltenberger called for discussion and public input; there was none. He called for the vote, Mr. Marsh voted no and the motion passed.

VII. Corporate Support – Rene Martello, Controller

A. Old Fund Fiscal Year 2022 First Quarter Budget Summary – Rene Martello, Controller

Ms. Martello provided an update on the status of the Old Fund as of September 30, 2021 which is the end of the first quarter for the State of Montana fiscal year.

She said Old Fund claim benefit payments are on track with the estimated at $485,000 less than what was expected for the first quarter. She said there were no changes in the estimates as this was just the first quarter report. She said the allocated loss adjustments expenses are projected to be $21,000 under since the benefits are estimated to be under for the year. She said the most recent report indicated there are 420 Old Fund claims open as of the early part of November 2021 which is about 10 fewer than the last quarter.

Chair Miltenberger called for questions.

Ms. Fagg asked for clarification - if there are fewer claims than were budgeted for, is that less money the state would reimburse us for from the General Fund?

President Hubbard said generally speaking, the State of Montana cash flows the actual payments we make which occurs on a monthly basis with transfers necessary to seed the funding of the account. He said the benefits must be paid, there is no MSF discretion to pay a medical bill for example. When the funding estimate is created, the State of Montana puts an account category and authorizes up to that level. Should MSF spend less than that, they will not save money, they will just pay less for that year. The fewer claims we end up having and the reduced costs of claim management services, then that means the reimbursement for administration will be reduced. In the 2022 budget that amount is around $540,000 for administrative expenses.

Chair Miltenberger called for additional questions; there were none.

VIII. Old Business/New Business
Chair Miltenberger called for Old and new Business. There was none.

IX. Public Comment
Chair Miltenberger called for public comment.

The meeting adjourned at 12:52 p.m. The next scheduled Board meeting will be held on Friday, March 11, 2022 at Montana State Fund, 855 Front Street, Helena, Montana in the first floor Board Room.

Respectfully submitted,

Verna Boucher
Special Assistant to the President/CEO