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**PROPOSAL FOR STATE OSHA PLAN**  
July, 2014

**GOAL: Improve worker safety and prevent workers' compensation injuries while lowering the cost of workers' compensation insurance.**

For the past several years, the Bureau of Labor Statistics (BLS) reported Montana's injury rates were the 1<sup>st</sup> or 2<sup>nd</sup> highest in the nation. We currently have the 3<sup>rd</sup> highest injury rates which are the lowest ranking in the last decade.

It's not just a few hazardous industries where the injuries occur. The number of Montana injuries above the national average is occurring in almost all industries. See the attached graph from the Montana Department of Labor & Industry for details.

High injury rates not only harm workers but drive up workers' compensation insurance rates. The Montana 2011 workers' compensation reforms helped reduce our premium rate ranking reported by the Oregon Department of Consumer and Business Services from 1<sup>st</sup> highest premiums in 2010 to 8<sup>th</sup> highest in 2012.

The National Council of Compensation Insurers (NCCI) reported that Montana could reduce the costs of workers' compensation losses by \$145 million per year if we reduce injuries to the national average. Currently Montana's injury rates are 150% of the national average.

The Labor Management Advisory Council (LMAC) appointed by Commissioner Pam Bucy requested Department staff to begin the process of implementing a State based OSHA plan. 22 other states have state based plans that perform consultation services and enforce compliance of OSHA safety standards. Link to LMAC membership list <http://assets.dli.mt.gov/erd/lmac/dli-erd-lmac070.pdf>.

Federal OSHA encourages states to assume the fullest responsibility for administration and enforcement of occupational safety and health laws by providing grants to the states.

Montana would need to pass enabling legislation and prepare a state plan that is reviewed and approved by Federal OSHA. A state plan is also monitored by the Region VIII OSHA office in Denver, CO. See the attached draft implementation time line.

Montana would use detailed workplace injury data to direct prevention and compliance efforts toward Montana specific industries and causes of injuries.

Montana would prioritize consultation and training efforts toward specific industries and causes of injuries.

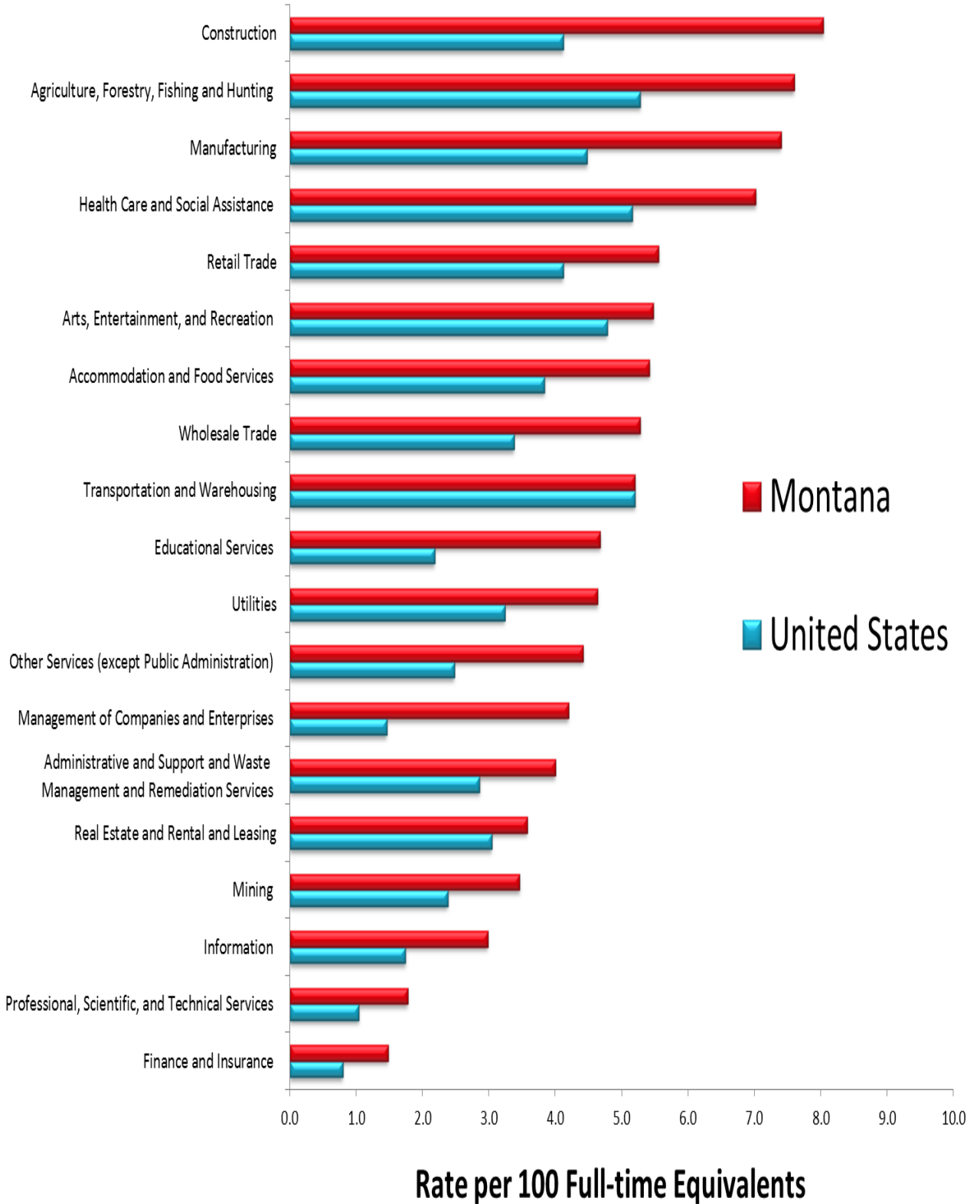
**SUMMARY: MONTANA COULD USE STATE DATA TO DRIVE A STATE PLAN TO CORRECT A STATE PROBLEM**

## How would a Montana State Plan Work?

The Federal OSHA Act states that any state which at any time desires to assume responsibility for development and enforcement of occupational safety and health standards shall submit a State plan for Federal approval.

- Montana Startup – Each component of State Plan requires Federal OSHA approval
  - Pass enabling legislation/rules – drafting legislation for 2015 Legislature:
    - Adopt OSHA standards CFR 1926 and 1910
    - Penalty structure
    - Appeal process
    - Discrimination/Retaliation
    - Organizational structure
    - Funding
    - Timeline
  - Lobby Washington for funds – Up to 50% Federal Funds
  - Restructure current 24 safety professional FTEs to meet anticipated consultation and compliance functions – Fed OSHA has 8 FTEs
  - Seek approval to start inspections of private companies
  - OSHA oversees State with audits
  - OSHA retains jurisdiction over Federal employees such as post office, etc.
  
- Montana Method of Operations
  - Analyze Montana injury data by industry
  - Select corresponding state emphasis programs in conjunction with Labor-Business advisory board
  - Develop training material for the state-specific emphasis programs;
  - Conduct training for one year for those industries before compliance efforts are implemented
  - Inspect and enforce for compliance of emphasis programs
  - Work with Labor-Business advisory board:
    - Measure results
    - Achieve results and adopt new emphasis program
    - Or modify and continue with the emphasis program
  - Train and educate in schools and business
  - Use fines to fund safety education efforts

## Nonfatal Occupational Injury & Illness Incidence Rate By Private Industry, 5 year average 2008-2012



Source: Bureau of Labor Statistics 2014