

CORRECTED DRAFT FISCAL NOTE 2017 BIENNIUM  
 FOR PROPOSED STATE OSHA PROGRAM  
 PREPARED BY DIANA FERRITER, ADMINISTRATOR  
 EMPLOYMENT RELATIONS DIVISION  
 MONTANA DEPARTMENT OF LABOR & INDUSTRY



<u>Fiscal Impact:</u>	<u>FY16</u>	<u>FY17</u>	<u>FY2018</u>	<u>FY2019</u>
FTE (DOLI)				
Expenditures:				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0
Advisory Council	\$0	\$ 35,000	\$ 36,225	\$ 36,225
Safety Education/Prevention	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$ 35,000	\$ 36,225	\$36,225
Revenue:				
State Special Revenue	\$0	\$ 1,332,526	\$ 1,379,163	\$ 725,807
Federal Special Revenue	\$0	\$0	\$0	\$ 689,581
Fines & Penalties	\$0	\$0	\$0	\$ 608,960
Net Impact (New Revenue)	\$0	\$ 1,332,526	\$ 1,379,163	\$ 2,024,348

**Description of fiscal impact:** This legislation enables the Department of Labor & Industry to work with Federal OSHA in development of an operational plan to transfer the Federal OSHA compliance functions to a state OSHA program within the MT Department of Labor & Industry. The operational plan must be approved by Federal OSHA to be effective July 1, 2018 (FY2019). 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. A state OSHA program must be at least as effective as the Federal OSHA program.

Montana's injury rate is currently 40% higher than the national average and is the No. 1 cost driver in Montana's workers' compensation system. NCCI estimates loss costs could be reduced by \$115 million if our injury rate could be reduced to the national average. The goal of a state OSHA program would be to use Montana's 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. Montana data would be used to focus safety compliance efforts on the causes of injuries in Montana and reduce the injury rates in Montana.

**Assumptions:**

The operational plan will be worked on subsequent to the enabling legislation and the estimated timeline for full implementation would be approximately FY2019. Federal funding would need to be obtained through lobbying by Montana's congressional members. Federal funding would pay approximately one-half of the compliance functions. The request for funding in this draft fiscal note would be used to implement the operational plan prior to obtaining the Federal funding.

New revenue would be needed to fund the state's share of a state OSHA program and continue current level safety services beginning FY17. The workers' compensation assessment funding for current level safety services within the Department is not sufficient beginning July 1, 2016 because it is capped at 3% of benefits paid in the preceding year. The success that happened with the 2011 reforms has resulted in significant reductions in workers' compensation costs which in turn reduced funding to the Department for workers' compensation regulation, administration, and safety services. New revenue is needed to continue the current level of safety services and fund the proposed state OSHA program.

The Department would use 11 FTE to effectively perform the state OSHA compliance functions for both public and private entities. 1.5 FTE would be administrative support positions.

The legislation provides in Section 20 that the fines are to be used to fund safety education and outreach programs, such as SafetyFest, WorkSafeMT, etc, and cannot be used to fund the compliance or enforcement efforts. DOLI has four FTEs who provide safety education and outreach to all employers in Montana. \$608,960 of the fines collected would be used to fund these continued services. The remainder of fines could be used for other safety education and training efforts as recommended by the advisory board.

The advisory board proposed in Section 7 of the bill would be funded by the new funding source and would be \$36,225.

With the exception of the advisory board described above, it is assumed that expenses would not increase as a result of this legislation. Expenses to operate the program are expected to total \$1,332,526 in FY17, \$1,379,163 in FY 18, and \$725,807 in FY 19. As a result of the declining revenue related to the Workers' Compensation Assessment described above, there will not be sufficient revenue to support these existing expenses if this legislation is not passed.

#### **Long term impact:**

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. Injuries above the national average are occurring in almost all industries.

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.

However, we know the No. 1 cost driver in Montana's workers' compensation system is our injury rate. The National Council of Compensation Insurers (NCCI) reported that Montana could reduce the costs of workers' compensation losses by \$115 million if we reduce injuries to the national average. Currently Montana's injury rates are 140% of the national average. Refer to the Lost-time Accident numbers on the attached chart.

Funding a state OSHA program that is focused on prevention based on Montana data would be a positive return on the investment.