GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:	
HB0506 - Revise workers' compensation laws through freedom of competition (Nicol, Nelly)	
Status:	As Introduced

☐Significant Local Gov Impact ☐Needs to be included in HB 2 ☐Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Other - Plan No. 1	$48,100,000	$10,800,000	$11,016,000	$11,236,320
Other - Plan No. 2	Unable to Determine	Unable to Determine	Unable to Determine	Unable to Determine
Other - Plan No. 3	($7,708,838)	($10,278,450)	($10,432,627)	($10,589,115)
Revenue:				
General Fund				
Other - Plan No. 1	$49,282,000	$12,376,000	$12,904,407	$13,398,056
Other - Plan No. 2	Unable to Determine	Unable to Determine	Unable to Determine	Unable to Determine
Other - Plan No. 3	($7,708,838)	($10,278,450)	($10,432,627)	($10,589,116)
Net Impact-General Fund Balance	Unable to Determine	Unable to Determine	Unable to Determine	Unable to Determine

Description of fiscal impact: HB 506 requires the Department of Administration to elect workers' compensation insurance coverage on behalf of all state agencies and to manage this coverage under the terms, conditions, and provisions of compensation plan: No. 1 (self-insured), plan No. 2 (private carrier), or plan No. 3 (Montana State Fund). Due to a lack of available data, the cost of this bill is an undeterminable fiscal impact for Plan No. 2. The fiscal impact shown is based on the department electing workers' compensation insurance under Plan No.1.

FISCAL ANALYSIS

Assumptions:

Department of Administration

1. The bill provides the Department of Administration (DOA) the option to choose three options: Plan No. 1 (self-insured), Plan No. 2 (private carrier), or Plan No. 3 (Montana State Fund).
2. The Montana State Fund's workers' compensation fund was created in 2011, and the state of Montana has been a continual client. Therefore, the historical comparisons of what private entities could competitively bid (Plan No. 2) do not exist.
3. In addition, no actuarial analysis exists to determine the feasibility of self-funding the workers' compensation risk.
4. There is also a large variability in workers' compensation payments, making it difficult to develop reliable cost estimates.

5. If DOA elects Plan No. 1, the department's Risk Management and Tort Defense Division will administer this program with existing staff.

Montana State Fund

6. State agency premiums are a significant portion of Montana State Fund's (MSF) annual premium revenues. For MSF's fiscal year (calendar year) 2022, state agencies' net earned premium was approximately 6% of MSF's total net earned premium.
7. Excluding the premium on the Montana State Fund, the state's gross earned work comp premiums are:
   - $9,882,126 - 2022 (policy eff. date 7/1/21 – 6/30/22)
   - $10, 278,450 – Estimate for 2023 (policy eff. date 7/1/22 – 6/30/23) – estimated premium as year is not complete. This is the gross earned premium only and does not include a potential dividend or retrospective rating adjustment.
8. For purposes of this fiscal note, $10,278,450 will be used to estimate the amount of agency premiums currently paid under Plan No. 3 that will no longer be paid to MSF if Plan No. 1 is chosen. For fiscal year 2024, this amount is prorated for nine months (October 1,2023 through June 30, 2024). For fiscal years 2026 and 2027, this amount has been inflated by 1.5%.
9. If the Department of Administration elects workers compensation coverage under Plan No. 1 or Plan No. 2, MSF will no longer:
   a. receive premium from the state agencies
   b. be liable to pay losses incurred by the state agencies for claims arising after the effective date of the new coverage, or
   c. pay dividends or pay retrospective returns to the state agencies
10. For the five years prior to fiscal year 2020, state agencies received a $1.8 million average return (retrospective returns and dividends), reducing premiums an average of 15% and equating to an average net annual premium of $8.9 million.
11. Montana State Fund is required to establish premium rates to be neither more, nor less, than self-supporting (39-71-2311, MCA). Manual rates will reflect actual losses over time independent of DOA's election of the state agencies' workers' compensation coverage plan.
12. If the Department of Administration does not select MSF (Plan No. 3), MSF's overhead expenses will be distributed among a smaller pool of policyholders resulting in upward pressure on premium rates.
13. Montana State Fund can be a third-party administrator, upon board approval, and contract with DOA if Plan No.1 is selected. The fiscal impact to MSF will be based upon a contract which is presently not quantifiable.
14. Montana State Fund may choose to provide, and manage, workers' compensation coverage for its own employees under Plan No. 3 if DOA elects workers' compensation coverage under Plan No. 1 or Plan No. 2.
15. If the Department of Administration elects to obtain workers' compensation coverage for state agencies under Plan No. 1 or Plan No. 2, MSF staffing levels will be adjusted to correspond to the workload.
16. If the state of Montana elects to self-insure under Plan No. 1, and MSF is approved to be the third-party administrator for claims from the state of Montana, staffing reductions will be lessened.
17. Upon passage and approval, HB 506 will become effective on October 1, 2023.

Department of Labor and Industry

18. Depending on the workers' compensation plan selected by the Department of Administration, the Department of Labor and Industry (DLI) may have a small increase in administrative costs. However, these costs can be absorbed in DLI's current budget authority, so there is no fiscal impact to the department.

Department of Commerce

19. The Board of Investments (BOI) will issue bonds if the Department of Administration were to exercise the option afforded under Section (2)(3)(c) of the bill. For the purposes of this fiscal note, BOI assumes parity with Montana State Fund's coverage information, including loss ratios, underwriting ratios, combined ratios, premiums collected, and claims paid to establish a baseline for comparison.

20. The Board of Investments will issue $40,000,000 in bonds at a rate equaling 2.75% for a term of 10 years to provide sufficient capital to meet current workers compensation coverage provided by Montana State Fund. The portfolio will be allocated 30% to the Short-Term Investment Pool (STIP), with an assumed long term annual return of 2.5%, and 70% to the Trust Fund Investment Pool, with an estimated annual return of 4.2%. Article VIII, Section 13 of the Montana Constitution would prohibit the Department of Administration from having equities in a standalone workers compensation pool.
21. Administrative costs of the program, including third party administrators, are not reflected in these assumptions nor are efficiencies from not paying commissions, marketing, etc.
22. The table below shows the projected inflows of bond proceeds, premiums, and investment returns and projected outflows of claims, underwriting, and investment expense for fiscal years 2024, 2025, 2026, and 2027.
23. A portion of the premiums charged, along with investment earnings, will be used to pay back the bonds over the 10-year period.

Fiscal Impact: Plans No. 1 and No. 3	**FY 2024 Difference**	**FY 2025 Difference**	**FY 2026 Difference**	**FY 2027 Difference**
FTE	0.00	0.00	0.00	0.00
Expenditures:				
Underwriting/Other Expenses (P1)	$2,250,000	$3,000,000	$3,060,000	$3,121,200
WC Claims Incurred (P1)	$5,850,000	$7,800,000	$7,956,000	$8,115,120
WC Premiums - (P3)	($7,708,838)	($10,278,450)	($10,432,627)	($10,589,115)
Other - Bonds Issued - (P1)	$40,000,000	$0	$0	$0
TOTAL Expenditures	$40,391,162	$521,550	$583,373	$647,205
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
Other - Various Funds (P3)	($7,708,838)	($10,278,450)	($10,432,627)	($10,589,116)
Other - Bonds Issued - (P1)	$48,100,000	$10,800,000	$11,016,000	$11,236,320
TOTAL Funding of Exp.	$40,391,162	$521,550	$583,373	$647,204
Revenues:				
General Fund (01)	$0	$0	$0	$0
Other - WC Premuims - (P1)	$9,000,000	$12,000,000	$12,240,000	$12,484,800
Other - Investment Earnings - (P1)	$282,000	$376,000	$664,407	$913,256
Other - Various Funds (P3)	($7,708,838)	($10,278,450)	($10,432,627)	($10,589,116)
Other - Bonds Issued - (P1)	$40,000,000	$0	$0	$0
TOTAL Revenues	$41,573,162	$2,097,550	$2,471,780	$2,808,940
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
Other - Various Funds (P3)	$0	$0	$0	$0
Other - Bonds Issued - (P1)	($38,818,000)	$1,576,000	$1,888,407	$2,161,736

NOT SIGNED BY SPONSOR

Sponsor's Initials *Date*

Budget Director's Initials 2-27-23 *Date*