

OVERVIEW

Commissioner: Sarah Swanson (Appointed by Governor and confirmed by the Senate)

DUTIES/RESPONSIBILITIES

WORKFORCE, EMPLOYMENT/UNEMPLOYMENT OVERSIGHT

- Oversees workforce and apprenticeship programs, including managing Job Service Offices statewide, work-based learning programs, the Jobs for Montana's Graduates program for middle and high school students, and the State Workforce Innovation Board. Many of these programs implement federal directives related to workers and employers.
- Provides economic analysis related to labor and employment.
- Manages 33 professional and occupational licensing boards and oversees complaints and investigations for the volunteer boards.
- Oversees the federal-state unemployment insurance program, handling claims and appeals, and making sure unemployment insurance schedules are fairly applied.
- Works with collective bargaining mediation.
- Conducts workplace safety training for all employers. Conducts inspections for local and state government entity work sites. Inspects coal mines and sand and gravel operation.

INVESTIGATORY RESPONSIBILITIES

- Investigates cases in which employers do not have workers' compensation insurance and arranges claim payments for workers of employers found not to have workers' compensation.
- Provides information, determinations, and hearings related to wage and hour complaints.
- Investigates charges of illegal discrimination under state (and related federal) law and provides educational outreach on human rights issues.

WORKERS' COMPENSATION OVERSIGHT

- Oversees the overall workers' compensation system by gathering information, providing utilization and treatment guidelines as well as medical fee schedules and a prescription drug formulary. Conducts mediation on claims, promotes return-to-work programs. Assists with the Workers' Compensation court.
- Handles independent contractor exemptions and contractor and home inspector registrations.

OTHER BUSINESS REGULATION/ASSISTANCE

- Handles business-related meter testing to ensure accuracy for weights and measures.
- Administers building construction standards outside of areas not governed by local codes and works with builders to adopt national codes.
- Oversees the Governor's Office of Community Service.

- Surveys businesses for determination of prevailing wage rates and migrant agricultural workers' wages under H-2A visas.

LEGISLATIVE AUDITS

- 2021 Financial Compliance Audit (21-15), 6 recommendations
- 2019 Financial Compliance Audit (19-15), 3 recommendations, 2 fully implemented, 1 not implemented.
- 2018 The Montana Prescription Drug Registry Performance Audit (18DP-01), 9 recommendations; Follow-up (21SP-01), 5 recommendations implemented, 4 in-process.

DLI - BIENNIUM BUDGET FOR FY 2024 AND FY 2025

DIVISIONS	FTE	HOUSE BILL 2 FOR FY 2024			HOUSE BILL 2 FOR FY 2025			TOTAL: ALL SOURCES for FY25 Biennium
		General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special	
Commissioner's Office/Central Services**	10	\$327,330	\$790,500	\$577,546	\$347,577	\$830,168	\$612,488	\$3,485,609
Employment Standards	248.87	\$1,784,576	\$35,874,817	\$1,281,217	\$1,856,868	\$34,689,590	\$1,317,616	\$76,804,684
Unemployment Insurance	141.11		\$6,792,910	\$11,822,422		\$7,282,932	\$11,911,310	\$37,809,574
Workforce Services	218.5	\$271,895	\$13,769,404	\$16,474,380	\$271,895	\$14,239,834	\$16,806,237	\$61,833,645
Workers' Compensation Court	5		\$748,389			\$780,666		\$1,529,055
Office of Community Service	6	\$263,603	\$12,388	\$4,019,671	\$224,543	\$12,388	\$4,037,103	\$8,569,696
Technology Services ***			PROPRIETARY FUNDS			PROPRIETARY FUNDS		
Totals	629.48	\$2,647,404	\$57,988,408	\$34,175,236	\$2,700,883	\$57,835,578	\$34,684,754	\$190,032,263

*As provided in HB2.

** The Enterprise/Proprietary FTE allocation and funds for the commissioner's office/central services division are not included in the totals above, per the calculations in HB2.

*** The FTE allocation and funds for the technology services division are not included in the totals above, per the calculations in HB2.

EAIC POTENTIAL AREAS OF INTEREST

- Current minimum wage: \$9.95/hr – effective 01/01/2023
- Monitor implementation of DLI agency bills
- Potentially look at licensing law revision (follow up on Governor's red tape bill HB152 from 2023)

2021-2023 UNEMPLOYMENT RATES (PERCENT, SEASONALLY ADJUSTED):¹

2021

January	4.0	February	3.8	March	3.7	April	3.7
May	3.6	June	3.5	July	3.4	August	3.3
September	3.1	October	3.0	November	2.8	December	2.7

2022

January	2.6	February	2.5	March	2.5	April	2.6
May	2.6	June	2.7	July	2.7	August	2.7
September	2.7	October	2.7	November	2.7	December	2.6

2023

January	2.5	February	2.4	March	2.3	April	2.3
May	2.3						

RELATED LEGISLATION PASSED IN 2023

During the 2021-2022 interim, the Department of Labor and Industry requested **nine** bill drafts. Of the nine drafted and introduced, **eight** were passed and approved:

- HB 41** Expands incumbent worker training eligibility and awards; revises definitions; provides for categories of eligible employers; revises award disbursement laws; requires the department's funds to remain in the program for future awards.
- HB 67** Repeals the termination date pertaining to registry fees for real estate appraisers.
- HB 87** Revises laws related to licensing boards; establishes standards for appointments, qualifications, and terms for licensing boards; provides for standardized licensing board organization and compensation; revises requirements to review requests to create a new licensing board; allows the department to charge fees; adds licensing programs to the review required for new licensing boards.
- HB 115** Revises laws related to licensing boards; consolidates and clarifies penalties for unlicensed practice; establishes a policy allowing the department to issue cease and desist orders; provides for uniform civil penalties for violations; allocates penalties to special revenue and general funds; allows boards and the department to issue injunctions; provides for criminal penalties; establishes acts that are considered unprofessional conduct for pharmacists; repeals penalty provisions in individual board statutes.

¹ <https://fred.stlouisfed.org/series/MTUR>

- HB 137** Revises licensing and certification requirements for behavioral health practitioners; establishes experience and education requirements; provides confidentiality, immunity, and rulemaking authority.
- HB 142** Revises laws related to unemployment insurance and false claims; ensures appropriate restitution for false claims; clarifies that theft from unemployment insurance is theft from a public agency.
- HB 154** Revises laws related to nursing licensing; revises Medication Aide II qualifications relating to work experience.
- SB 53** Revises laws relating to weights and measures fees collected by the department; provides rulemaking authority to the department on fees for weights and measures; limits the fee increase on a license for a weighing device; establishes reporting requirements; requires a one-time-only transfer of funds.

Legislation related to building codes, permits, weights & measures, and other DLI related legislation:

- HB 241** Provides that the state and local governments cannot require that buildings be constructed to have solar panels, batteries, or electric vehicle chargers.
- HB 296** Revises laws relating to sales of residential real property; requires sellers of residential real property to provide a written disclosure statement; provides exemptions; provides for a buyer's right to rescind.
- HB 303** Provides protections for medical practitioners, health care institutions, and health care payer actions based on conscience; provides protections for objecting to participating in health care services based on conscience; provides free speech protections; provides whistleblower protections, immunity, remedies; limits governmental liability.
- HB 433** Clarifies that state building codes may not prohibit the use of certain refrigerants.
- HB 465** Authorizes the use of construction-related fees or charges that may be imposed by a county, city, or town for activities in support of the issuance of a building permit; increases the reserve amount required before construction-related fees or charges may be reduced; prohibits the Department from conducting certain audits of a county, city, or town building code enforcement program except as part of a financial audit.
- HB 610** Allows emergency care providers to provide patient care in a health care facility.
- HB 691** Revises laws related to the duties of the Department; revises exclusions from employment relating to casual employment.

- HB 703** Revises laws related to emotional support animals; allows a landlord to request certain supporting information related to a tenant’s need for an emotional support animal; requires a licensed health care practitioner to provide supplemental information that identifies the emotional need the animal supports; prohibits a landlord from requiring information related to a person’s diagnosis or severity of disability; provides a tenant is liable for damages or injury done to property or persons by an emotional support animal.
- HB 903** Requires a report to the Board of Medical Examiners from the Department of Revenue for physicians who issue more than 39 written certifications for medical marijuana.
- SB 22** Revises independent contractor laws; provides department analysis relating to the employment status of a person; revises laws related to independent contraction exemption certificates.
- SB 195** Revises state building codes adopted by rule; allows a place of religious worship to use its building space for temporary overnight visitors.
- SB 208** Prohibits local governments from banning or limiting energy choices.
- SB 228** Prohibits the ban of petroleum fuel-powered machinery, vehicles, vessels, tools, facilities, appliances, or equipment.
- SB 245** Revises municipal zoning laws; requires certain municipalities to allow multiple-unit dwellings and mixed-use development.
- SB 262** Revises laws related to licensing preemption by the state; prohibits a local government from requiring a license in certain circumstances.
- SB 284** Revises laws related to reporting of drugs taken by or prescribed to individuals whose deaths are ruled to be suicide; limits sharing of registry information involving individuals who complete suicide; requires coroners to report available toxicology results for individuals who complete suicide; requires a report on toxicology and controlled substances information in deaths ruled suicide.
- SB 323** Revises municipal zoning laws; requires certain municipalities to allow multiple-unit dwellings and mixed-use development.
- SB 406** Prohibits a local government from adopting building codes that are more stringent than state building codes.
- SB 458** Revises laws to provide a common definition of “sex” when referring to a human.

SB 528 Revises municipal zoning laws to allow for accessory dwelling units; requires municipalities to adopt certain regulations in relation to accessory dwelling units; prohibits certain regulations in relation to accessory dwelling units; allows a municipality to charge a fee to review applications to create accessory dwelling units.

Other labor related legislation:

- HB 178** Revises workers' compensation laws relating to when the employee is engaging in social or recreational activity; revises laws relating to employee injuries during social or recreational activities at the worksite of the employer.
- HB 245** Revises laws related to the trades education and training tax credit; expands the list of qualifying trades for the credit; allows the Department of Revenue to expand the list through rulemaking; extends the termination date of the credit by 2 years.
- HB 346** Revises the tribal computer programming boost scholarship program; consolidates administration of the program at the Department of Labor and Industry; expands the teacher professional development component to include elementary and middle school teachers.
- HB 427** Provides that members of the National Guard and Air National Guard are entitled to workers' compensation while on state duty; requires the Department of Military Affairs to cover the difference between workers' compensation benefits and the injured member's federal compensation rate.
- HB 449** Provides for pediatric complex care assistant services under the Medicaid program; establishes licensure requirements for care assistants.
- HB 490** Revises laws related to independent contractor tax evasion and fraud; clarifies business practices for construction contractors who hire independent contractors; revises independent contractor violation penalties.
- HB 499** Revises licensed social worker requirements pertaining to work experience; allows a license baccalaureate social worker and a licensed master's social worker to be licensed in the state with certain requirements.
- HB 601** Revises the credit amount for the annual job growth incentive tax credit.
- HB 636** Revises workers' compensation laws related to exemptions; reduces ownership requirements relating to a corporation or a limited liability company.
- HB 652** Revises the duration of unemployment insurance benefits; reduces the number of benefit weeks from 28 weeks to 24 weeks.

- HB 691** Revises laws related to the duties of the Department of Labor and Industry; revises exclusions from employment relating to casual employment.
- HB 702** Repeals the termination date related to reimbursement of workers' compensation premiums for certain work-based learning opportunities.
- HB 710** Allows administration of immunizations by pharmacy interns and pharmacy technicians under certain circumstances.
- SB 177** Revises the types of employment benefits that an employer shall consider as having value or compensation to an employee under local government laws.
- SB 270** Provides that termination of an employee based on statements made on social media is discrimination and subject to wrongful discharge laws.
- SB 300** Revises qualifications for licensure as a speech-language pathology assistant or audiology assistant.
- SB 310** Adds two presumptive occupational diseases proximately caused by firefighting activities.
- SB 425** Revises the licensing requirements for an addiction counselor.
- SB 444** Revises laws related to work-based learning programs; requires written agreements for the programs and specific elements to qualify for exemption from certain wage laws.
- SB 457** Repeals the Board of Sanitarians and transfers the authority of the Board of Sanitarians to the Department of Labor and Industry.

Other professional and occupational licensing related legislation:

- HB 101** Revises licensing reciprocity provisions for out-of-state practitioners licensed by the Board of Behavioral Health; establishes that licensure in another state is sufficient to obtain Montana licensure in certain instances.
- HB 247** Revises laws relating to exemptions concerning the Board of Realty Regulation; provides that certain digital media platforms are exempt.

- HB 292** Makes the enterprise fund for the Board of Accountancy permanent by eliminating the termination date of a statutory appropriation.
- HB 313** Provides for the independent practice of physician assistants after a certain amount of supervision.
- HB 336** Provides state recognition for family child-care providers that are licensed by a branch of the United States Armed Forces.
- HB 353** Revises laws related to barbers and cosmetologists; exempts natural hair braiding services from licensing regulations.
- HB 358** Revises property manager license laws; exempts from the property manager license requirement owners of real estate, related owners, and entities owned by related owners; eliminates the exemption for persons acting as managers of certain government-subsidized housing.
- HB 392** Expands the ability for direct-entry midwives to obtain and administer certain prescription drugs.
- HB 443** Prohibits discrimination based on the free exercise of religion or the freedom of speech and expression in the real estate industry and other licensed professions and occupations.
- HB 583** Provides licensing and certification reciprocity for military members, military spouses, and veterans.
- HB 615** Revises deductible requirements for professional liability insurance coverage for real estate broker and salesperson licensees.
- HB 777** Adopts the Interstate Counseling Compact.
- SB 100** Revises laws related to naturopathic physicians and natural substances; amends the natural substance formulary list.
- SB 101** Revises laws relating to the dispensation of drugs by naturopathic physicians; includes naturopathic physicians in laws relating to the dispensation of drugs.

- SB 112** Revises pharmacist prescribing authority to allow the prescribing of certain drugs or devices under limited circumstances.
- SB 155** Adopts the Occupational Therapy Licensure Compact.
- SB 166** Exempts barbering services provided at state correctional facilities and county detention centers from licensing requirements.
- SB 214** Adopts the Audio and Speech-Language Pathology Interstate Compact.
- SB 244** Revises internship requirements to obtain a license required for the practice of mortuary science.
- SB 300** Revises qualifications for licensure as a speech-language pathology assistant or audiology assistant.
- SB 453** Revises the composition of the Alternative Health Care Board and the Board of Medical Examiners; transfers oversight of acupuncturists from the Board of Medical Examiners to the Alternative Health Care Board.
- SB 454** Repeals the Board of Private Security and transfers authority from the board to a Department of Labor and Industry Program; eliminates licensure of alarm response runners, branch offices of private security companies, and resident managers of private security companies; combines proprietary and contract private security companies into a single license type.
- SB 455** Revises the composition of the Board of Realty Regulation; transfers the oversight of property managers from the Board of Realty Regulation to the Department of Labor and Industry; establishes licensing requirements; repeals licensing and registration requirements for timeshare sales.
- SB 456** Repeals the Board of Hearing Aid Dispensers and transfers authority from the board to a Department of Labor and Industry program; eliminates the required licensure of a person to sell over-the-counter hearing aids.
- SB 457** Repeals the Board of Sanitarians and transfers the authority of the Board of Sanitarians to the Department of Labor and Industry.

- SB 561** Provides for the permitting of veterinary retail facilities; provides for the registration of veterinary dispensing technicians; provides for continuing education requirements; provides definitions, application and permit renewal fees, rulemaking authority.
- SB 564** Allows the Board of Medical Examiners to make medical malpractice insurance available to Health Corp members; requires a fee on physicians for board-purchased medical malpractice insurance.