



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **SB0394.01: Provide for workers' compensation coverage of PTSD for first responders**

Primary Sponsor: Cora Neumann Status: As Introduced

☐ Included in the Executive Budget ☐ Needs to be included in HB 2 ☐ Significant Local Gov Impact
☐ Significant Long-Term Impacts ☒ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
Expenditures				
Other	\$871,909	\$871,909	\$884,988	\$884,988
Revenues				
Other	\$871,909	\$871,909	\$884,988	\$884,988
Net Impact	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
General Fund Balance	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

Description of fiscal impact

SB 394 specifies that post-traumatic stress disorder (PTSD) is a new type of injury that is eligible for worker's compensation insurance for Montana's first responders with injuries or occupational disease caused by events that arise out of the course and scope of employment. Montana employers who provide workers' compensation insurance coverage for these first responders will have premiums increased due to an increase in claims for this type of coverage.

FISCAL ANALYSIS

Assumptions

Montana State Fund

1. The National Council of Compensation Insurance (NCCI) analyzed the cost of this legislation on the Montana workers' compensation (WC) system and found it would result in an indeterminant increase for Montana with a substantial portion of the costs impacting governmental entities as the primary employers of the affected employees.
2. NCCI's analysis concluded, "if enacted, the expected cost impact to an individual first responder classifications in Montana could be significant", with significant defined as an overall impact of greater than 3% with no upper bound indicated.
3. PTSD injuries are only applicable to Montana's injured employees who are first responders and who are diagnosed with PTSD caused by an event or events arising out of the course and scope of employment.
4. The bill defines 'first responders' as a professional or volunteer firefighter, law enforcement officer, dispatcher, employee of a county detention center or prison, or any other authorized person who responds to an emergency in a professional capacity.

5. MSF's analysis of the costs considers coverage of firefighters including both paid and volunteers, police officers, highway patrol, detention officers, and EMT / paramedics classification codes.
6. MSF's analysis does not include the exposure of employees that may be 'any other authorized person' who responds to an emergency in a professional capacity.' For example, nurses or physicians who respond to an event.
7. MSF cannot specifically estimate the potential claim benefit and premium increases as PTSD has not previously been covered under Montana's workers' compensation laws and therefore does not have specific data pertaining to PTSD claim frequency or severity in Montana. The MSF cost analysis is based on similar laws and studies conducted when PTSD entitlements were enacted in other states.
8. MSF estimates the annual cost for the overall Montana WC system will be \$1,072,178 based on the defined first responder exposure. This is the basis for the amounts noted in the fiscal impact table for FY 2026 and FY 2027 then increasing by 1.5% for FY 2028 and FY 2029.
9. This cost is separated in the table below showing Montana's WC System claim cost and the segregation of MSF and plan 1 and plan 2 carriers' costs. The claim amounts are based on MSF's 2023 experience and Oregon's claim frequency data. The total Montana WC system cost is \$1,072,178. The cost is separated \$871,909 to MSF and \$200,269 to Plans 1 and 2.
10. MSF insures the state agencies workers' compensation liability and this cost is included in the MSF amounts in the 'Montana PTSD Claim Cost' table above. MSF estimates an increase in annual claim costs of \$871,909 for MSF's book of business. An estimated \$201,000 of this increase is for the state agencies' first responders and is based on \$2.5 million paid in premiums for the first responder class codes.
11. MSF cannot identify what portion of this increase in claim cost will come from general fund, state special or federal funds.

SB 394 PTSD

	<u>MT WC</u>		
Montana PTSD Claim Cost	<u>System</u>	<u>MSF</u>	<u>Plans 1 and 2</u>
Wage Loss Claims	10	8	2
Wage Loss Claim Costs	\$647,154	\$517,722	\$129,431
Medical Only Claims	30	25	5
Medical Only Claim Cost	\$425,024	\$354,187	\$70,837
Total PTSD Claims	40	33	7
Total PTSD Cost	\$1,072,178	\$871,909	\$200,269

Department of Labor and Industry

12. Covering PTSD under Workers' Compensation may result in increased orders, settlements, or mediations. The costs associated with this bill will be minimal, and the Department of Labor and Industry (DLI) will utilize existing resources to cover those costs. There will not be a fiscal impact for DLI.

Fiscal Analysis Table

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
<u>Fiscal Impact</u>				
<u>Expenditures</u>				
Benefits	\$871,909	\$871,909	\$884,988	\$884,988
TOTAL Expenditures	\$871,909	\$871,909	\$884,988	\$884,988
<u>Funding of Expenditures</u>				
Other	\$871,909	\$871,909	\$884,988	\$884,988
TOTAL Funding of Expenditures	\$871,909	\$871,909	\$884,988	\$884,988
<u>Revenues</u>				
Other	\$871,909	\$871,909	\$884,988	\$884,988
TOTAL Revenues	\$871,909	\$871,909	\$884,988	\$884,988
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
Other	\$0	\$0	\$0	\$0

Technical Concerns**Department of Labor and Industry**

1. Section 1 may give rise to constitutional equal protection concerns. Specifically, the class of individuals defined as “first responders” in subsection (4) are entitled by the bill to workers’ compensation benefits for PTSD. All other individuals are prohibited from such benefits for the same diagnosis. This would be true even if the non-first responder was diagnosed with PTSD based on events in the course and scope of employment.
2. Section 1 may give rise to constitutional unlawful delegation concerns. Specifically, subsection (2) requires “the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders” be utilized to determine whether a worker has PTSD. Because new editions of the DSM will issue, the “most recent” iteration, and therefore the appropriate diagnostic criteria, would be delegated to the publishers of that manual. *See Hensley v. Mont. State Fund*, 2020 MT 317, P 62, 402 Mont. 277, 477 P.3d 1065 (Gustafson, J. *dissenting*) (noting that a Pennsylvania court had stricken as unlawful delegation adoption of a “most recent” version of a workers’ compensation-related guide, and averring “[o]ne could anticipate a similar result if this provision was challenged in other states.”).

NO SPONSOR SIGNATURE

3/3

Sponsor's Initials

Date



Budget Director's Initials

3/1/2025

Date