



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **SB0308.02 (001): Revising workers' compensation insurance laws to remove the limitation on benefits to the state's weekly average wage**

Primary Sponsor: Derek Harvey Status: As Amended in Senate Committee

☐ 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</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>
Expenditures				
Other	\$0	\$0	\$0	\$0
Proprietary Fund	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
Revenues				
Other	\$0	\$0	\$0	\$0
Proprietary Fund	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
Net Impact	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
General Fund Balance				

Description of fiscal impact

SB 308 removes the limitation that an injured worker's weekly compensation benefit may not exceed the state's average weekly wage (AWW) and provides for an injured worker's weekly compensation benefit to be paid at 66 2/3% of time of injury wages. This change is estimated to result in an annual impact to the Montana workers' compensation system between +6.5% (\$20M) and +7.7% (\$24M). This bill will increase claim benefit payments to injured workers and increase workers' compensation insurance premium rates. The amendment to SB 308 establishes a maximum weekly compensation benefit of \$2,885. The introduced bill had no maximum compensation benefit.

FISCAL ANALYSIS

Assumptions

Montana State Fund

1. The National Council on Compensation Insurance (NCCI) analyzed the impact of this legislation on the Montana workers' compensation system. NCCI estimated that the bill will result in an impact between +6.5% (\$20M) and +7.7% (\$24M).
2. The NCCI analysis noted in assumption #1 does not include Montana's self-insurance (plan 1). NCCI estimates an additional \$4.0 million in annual expense when including self-insurance.
3. NCCI's analysis of this bill is prospective only (i.e., for accidents occurring on or after the effective date of the proposal if ultimately enacted).
4. Montana State Fund (MSF) analyzed this bill assuming it is prospective only.

5. MSF estimates that removing the AWW limitation will increase claim benefits paid to MSFs' policyholders' injured employees by: \$10.9 M in FY 2026; \$10.6 M in FY 2027; \$11.1 M in FY2028 and, \$11.7 M in FY2029. MSF's estimate applies NCCI's estimated 6.5% factor (low-end of NCCI range) to MSF's estimated policyholder premiums for those years.
6. Based on prior years' filings, MSF expects NCCI's estimated 6.5% to 7.7% increase in claim benefits to correlate with a similar increase in loss costs in Montana. If carriers were to keep loss cost multipliers constant with prior years, statewide workers' compensation premium rates would increase by 6.5% to 7.7% due to the bill's benefit increase.
7. Montana's AWW, used in the determination of wage-loss benefits, is updated and approved annually by the Department of Labor and Industry. It is effective July 1 each year.
8. Effective July 1, 2024, the state's AWW is \$1,084. If this bill went into effect now, injured employees with weekly time of injury wages greater than \$1,626, about \$84,500 annually, would have increased compensation benefits.
9. Montana workers' compensation system cost may also increase as a result of behavioral changes resulting from the increased benefit payments. A previous NCCI study indicated that significant benefit increases are typically accompanied by changes in claimant behavior known as utilization. NCCI's cost analysis applies utilization factors while MSF's analysis does not.
10. Workers' compensation benefits are generally exempt from state and federal tax.
11. Workers' compensations insurance premiums for state agencies insuring their liability with MSF, regardless of funding source, will likely have increased premiums as a result of this bill. The increase in the specific premium rate for each agency and by fund type cannot be determined and will be based on the agencies' loss experience.
12. SB 308 as amended provides for a maximum \$2,885 weekly compensation benefit or \$150,000 annually. The introduced bill had no maximum on the weekly compensation benefit.
13. The fiscal impact of the maximum \$2,885 weekly compensation benefit, as compared to no maximum on the compensation benefit, on the Montana WC system is estimated to be a minimal cost reduction however the cost cannot be determined by MSF.
14. SB 308 as introduced was analyzed by NCCI to estimate the fiscal impact on the Montana WC system. NCCI has not provided information related to SB 308 as amended or the potential change related to the fiscal impact on the Montana WC system.
15. MSF analyzed a six-year sample of wage loss claims on MSF (plan 3) data only. This was a sample of 9,034 wage loss claims. Of this sample, twelve wage loss claims had a weekly wage of \$2,885 or more and correlates to 0.13% of the 9,034 wage loss claims. The weekly wages on these twelve claims ranged from \$2,958 to \$4,698.
16. MSF estimates that the twelve claims identified over the past six years and compared with no maximum weekly compensation benefit versus a \$2,885 compensation benefit weekly maximum would have equated to about \$400,000.
17. Based on MSF (plan 3) data only, MSF estimates the amendment to SB 308 to generate minimal cost saving as compared to the introduced bill.

Department of Labor and Industry

18. The Uninsured Employers Fund (UEF) pays indemnity benefits paid to workers injured while working for an uninsured employer. The fiscal impact to UEF because of SB 308 is currently unknown as the increase in benefits will be based on injured workers' wages for injuries that occur after the implementation date.

Department of Administration

19. With the amendment that adjusts the weekly compensation to not exceed \$2,885 at the time of injury, only Montana State Fund can estimate the impact of payouts. The payouts do not affect HCBF operations directly but will indirectly impact the worker's compensation rates paid by each agency upon annual renewal.

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	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
TOTAL Expenditures	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
<u>Funding of Expenditures</u>				
Other	\$0	\$0	\$0	\$0
Proprietary Fund	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
TOTAL Funding of Expenditures	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
<u>Revenues</u>				
Other	\$0	\$0	\$0	\$0
Proprietary Fund	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
TOTAL Revenues	\$10,900,000	\$10,600,000	\$11,100,000	\$11,700,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
Other	\$0	\$0	\$0	\$0
Proprietary Fund	\$0	\$0	\$0	\$0

Technical Concerns**Montana State Fund**

1. The bill's effective date is not clear in correlation to the date of injury on a claim versus the date a benefit payment may be issued on an existing claim. The assumptions above are based on a prospective only applicability, date of injury on or after October 1, 2025. However, if the proposed changes extend to accidents occurring prior to the effective date, there may be retroactive cost impacts arising from some provisions in the bill. Such a retroactive application could result in an unfunded liability to the extent that these additional costs were not contemplated in the premiums charged for policies written prior to enactment of the bill.

NO SPONSOR SIGNATURE

Sponsor's Initials

Date

3/17



Budget Director's Initials

3/7/2025

Date