

# LEGISLATIVE UPDATE FROM 2019 SESSION

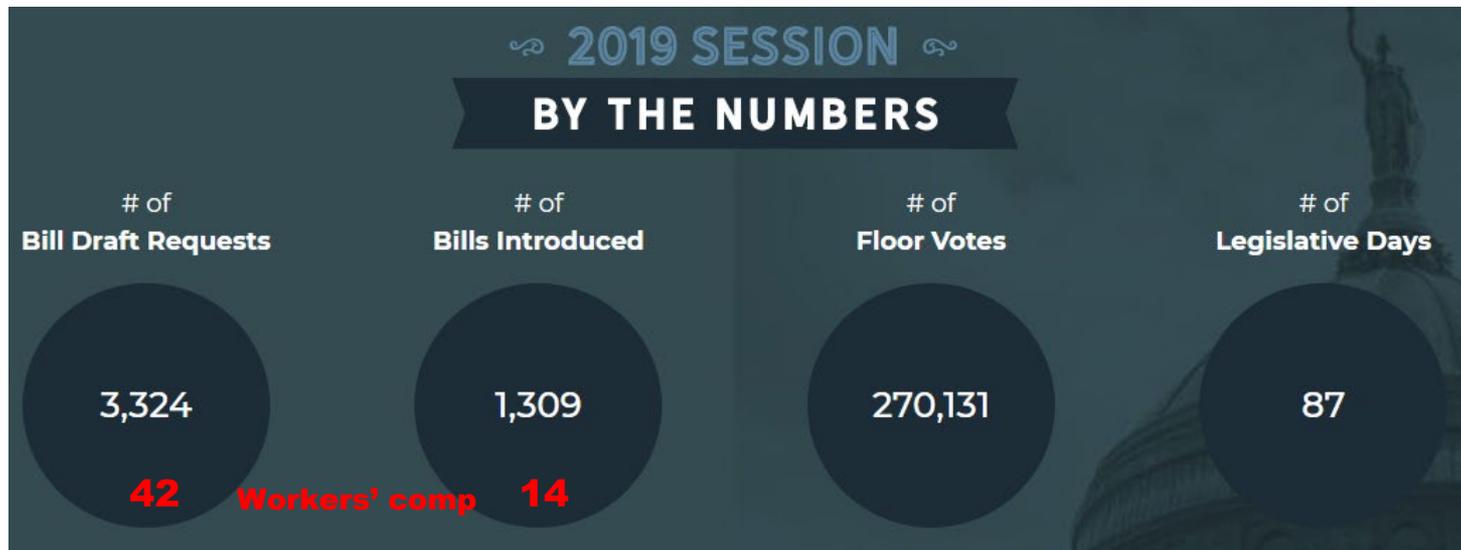
## SPRING STAKEHOLDER MEETINGS

May-June, 2019



Montana Department of  
**LABOR & INDUSTRY**

# 2019 Legislature at a glance



# HB 757 – Claims Examiner & ND

- Sponsored by Representative Derek Harvey
- Signed by Governor Bullock 5/7/2019
- Effective date is July 1, 2019
- Requires certification of claims examiners in work comp
  - Modifies 39-71-320, MCA and provides for rule making
  - Process for transition of newly hired claims examiners
  - Grace period for those working as an examiner 1/1/2019
- **Removes sunset on 39-71-442, MCA from HB 538 in 2015**
  - Eliminates double payment from employer when
    - Employer maintains work comp coverage in North Dakota
    - Employee works solely in North Dakota
    - Commuting does not constitute work performed
  - Sunset language also removed from 39-71-401 (1), MCA

# HB 732 – Work-based Learning Reimbursement

- Sponsored by Representative Derek Harvey
- Signed by Governor Bullock 5/8/2019
- Effective date is July 1, 2019
- Terminates June 30, 2023
- Requires DLI reimburse private employer who has hired a student in a high-quality work-based learning opportunity for the added cost of work comp related to the hire
  - Available funds
  - Safe working conditions
- Reimbursed through the WC Administrative Assessment Fund
  - 39-71-201, MCA

# SB 160 – Firefighter Presumption

- Sponsored by Senator Nate McConnell
- Signed by Governor Bullock on 4/18/2019
- Effective date July 1, 2019
- Optional for volunteer firefighters
- Beneficiaries are eligible in the same manner as in 39-71-407
  - Subject to exclusive remedy in 39-71-411
  - Filing requirements in 39-71-601
- **Disputes**
  - Insurer has the burden of proof
  - Preponderance of the evidence
  - Firefighter or beneficiaries may seek remedy for denied claim
- **Total claim payment limitation of \$5M per claim**

# SB 160 – definitions

- Presumptive occupational disease – harm or damage from one or more of the diseases outlined that is established by objective medical findings and is contracted in the course and scope of employment as a firefighter from either a single day or work shift or more than a single day or work shift but that is not a specific accident
- Firefighting activities – actions required of a firefighter that expose the firefighter to extreme heat or inhalation or physical exposure to chemical fumes, smoke, particles, or other toxic gases arising directly out of employment as a firefighter

# SB 160 – covered diseases

- Bladder cancer after 12 years
- Brain cancer of any type after 10 years
- Breast cancer after 5 years if the diagnosis occurs before the firefighter is 40 years old and is not known to be associated with a genetic predisposition to breast cancer
- Myocardial infraction after 10 years
- Colorectal cancer after 10 years
- Esophageal cancer after 10 years
- Kidney cancer after 15 years
- Leukemia after 5 years
- Mesothelioma or asbestosis after 10 years
- Multiple myeloma after 15 years
- Non-Hodgkin's lymphoma after 15 years
- Lung cancer after 4 years

# SB 160 – calculating employment

- For the purposes of covered diseases, calculating the firefighters employment history after July 1, 2014 will be used
- Must also be within 10 years of the last date on which the firefighter was engaged in firefighting activities for an employer

# SB 160 – conditions for claim

- Timely file a claim
- Within 90 days of hire, firefighter has medical exam that did not reveal objective medical evidence of presumptive disease
  - Subsequent exams at least once every 2 years
- Employer does not have to pay for medical exams
  - Firefighter may satisfy requirement by obtaining exam at own expense
- Firefighter may not
  - Be a regular tobacco user
  - Have a history of regular tobacco use in the 10 years of filing a claim
  - Have been exposed by a cohabitant who regularly and habitually used tobacco products within the home for a period of 10 or more years prior to the diagnosis
- **Current firefighters are not ineligible for not receiving medical exams as frequently as listed under the act.**

# State Fund related bills

- SB 351 - Board term requirements
- SR 36 - Confirm Governor appointments to Montana State Fund board
- SR 65 – Confirm Governor appointments to Montana State Fund board

# HB 86 – prescription drugs

- Sponsored by Representative Vince Ricci
- Signed by Governor Bullock on 3/21/2019
- Generally effective 10/1/2019
- Section 3 regarding the mandatory use of prescription drug registry is effective July 1, 2021
- Requires photo identification for release of controlled substances
- Opioid prescriptions to opioid-naïve patient for outpatient limited to a 7-day supply
- Section 3 – Mandatory use of prescription drug registry for opioids and benzodiazepines

# Unsuccessful Bills

- SB 78 – Require notice of claim closure
- HB 28 – Establish fireworks tax to assist with work comp for volunteer firefighters
- HB 214 - Revise laws with State Fund – included allowing DOA to go with Plan 2 or Plan 1
- HB 313 – Injured worker to choose treating physician
- SB 29 – Require work comp for volunteer firefighters
- SB 126 – Change solvency requirements for public self-insureds
- SB 234 – Allow DOA to go with Plan 2 or 1

# Questions?