



Montana Department of  
**LABOR & INDUSTRY**

# 2025 **WORKERS' COMPENSATION ANNUAL REPORT**

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**Published May 2025**

Montana Department of Labor & Industry  
Employment Standards Division  
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The data in this report is as accurate as reported to the Montana Department of Labor & Industry, Employment Standards Division (ESD). Counts and totals may change over time due to updated data and data clean-up efforts. Federal workers' injuries are not represented in this report.

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# INTRODUCTION

Welcome to the 2025 Workers' Compensation Annual Report. Inside, you will find information about the Employment Standards Division (ESD), at the Montana Department of Labor & Industry, and related workers' compensation programs. Also included are trends in Montana's workers' compensation system and work-related injuries reported and associated benefits. It is important to understand the impacts of work-related injuries on employers, workers, and system stakeholders.

The National Council on Compensation Insurance (NCCI) reported a 2024 loss cost multiplier of -3.0% and in 2025 +0.5%, later updated to 0%. Montana payroll was outpacing the cost of benefits until the most recent loss cost multiplier. The overall medical loss ratio trends have remained steady but the indemnity loss ratio trends have increased.

Montana had approximately \$27 billion in payroll in 2024, up about \$4 billion from 2023, for an estimated 512,000 workers.

In 2024, there were 22,593 work-related injuries reported to ESD, a 3% decrease from the previous year. Strains and sprains and slips, trips, and falls continue to be the most frequent types of injuries. Total benefits paid in 2024 were \$244 million, a decrease from \$262 million in 2023. In 2024, total medical payments accounted for \$141 million, down from \$157 million, and indemnity \$90 million, down from \$94 million, and miscellaneous expenses \$12 million. In 2023, there were 4 catastrophic injuries that resulted in \$4.7 million in medical payments which contributed to the higher amount in 2023.

The majority of wage-loss benefits were for Temporary Total Disability (TTD), resulting from an injury, where the worker was not at maximum medical improvement and was completely off work with a total loss of wages. Injured workers received TTD benefits for an average of 12 weeks and a combined average with Temporary Partial Disability (TPD) about 13 weeks. TPD results

from an injury where the worker is not at maximum medical improvement and not at work at full capacity and receiving partial wages.

Injured workers have the option for settlement and beginning in April of 2011, injured workers can settle future medical benefits, closing out medical on their claim. The settlement for best interest is the most frequent settlement. More information on benefits can be found on pages 27 to 29.

ESD has taken an active role to reach stakeholders across the state with information about safe work environments and the workers' compensation system. Provided in this report is a Safety Spotlight, highlighting the work and outreach of the Safety & Health Bureau.

ESD research staff have created workers' compensation dashboards provided on the webpage with an interactive tool to explore this data even further for stakeholders. This is located at [erd.dli.mt.gov](http://erd.dli.mt.gov) under the blue tab titled "Data Dashboards".

We hope you will find this report to be a valuable resource on trends and activities taking place in Montana's workers' compensation system. We continue to work at improving the reporting for all stakeholders in Montana through continued tracking and monitoring of data.

## SAFETY SPOTLIGHT

The Montana Department of Labor & Industry (DLI) believes safety must be a priority in every workplace. The department provides resources to assist employers in safety training and monitoring of workplaces for hazards. Safety training and injury prevention benefits employers and workers alike, keeping them from the physical and financial harm associated with workplace accidents. ESD aims to ensure all workplaces have access to safety resources and professionally trained safety staff; through federal funding and partnerships around Montana, ESD can offer safety services to employers free of charge.

ESD engages in several different safety activities – including a variety of safety trainings, on-site or virtual consultations, and public sector inspections. Note that all data is organized by fiscal year (July 1 to June 30).

## SAFETY TRAINING PROGRAM

ESD provides multiple types of safety training both virtually and in-person. These include standard OSHA 10 trainings for high school students and workers in construction and general industry, MSHA safety trainings for both surface and underground mining operations, and trainings on various safety topics as part of the Department's SafetyFest trainings.

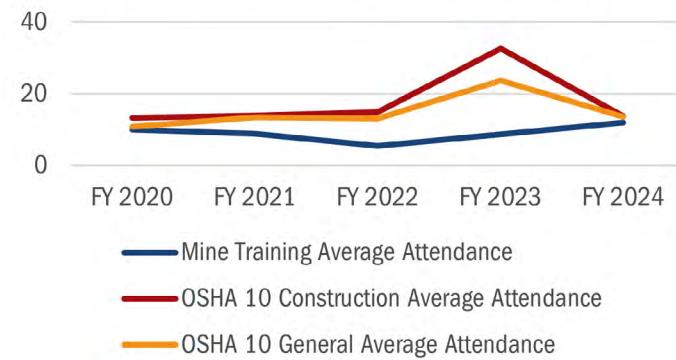
In FY24, ESD reduced its number of MSHA and OSHA safety trainings, reducing travel expenses without a substantial drop in class availability. Average attendance per OSHA class fell compared to FY23 numbers but remained slightly above prior year, and average MSHA class attendance increased.

SafetyFest training continued its upward trend in FY24, with over 700 participants attending two sessions. This growth reflects the program's ongoing success since its reorganization several years ago. Both in-person and virtual formats saw increased popularity. Virtual events had the highest attendance and offer a low-cost, accessible option for participants, minimizing travel and allowing people to join from their communities. In-person events have also grown rapidly and provide unique benefits, including vendor interaction, certification courses like CPR and first aid, and higher average class attendance. DLI will continue offering at least one of each format annually.

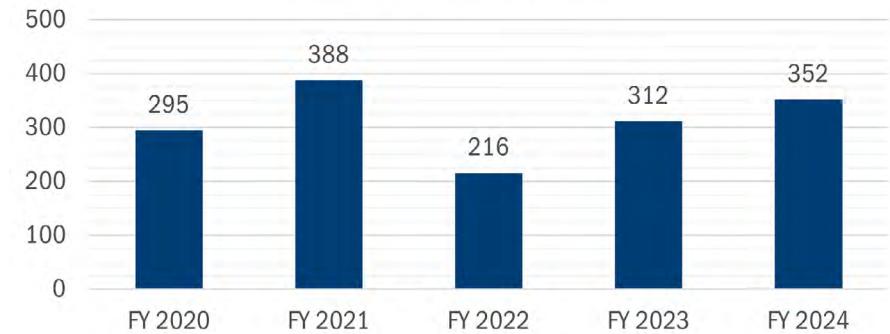
Safety Trainings Held FY20 - FY24



Average Attendance per Training FY20 - FY24



Average SafetyFest Attendance

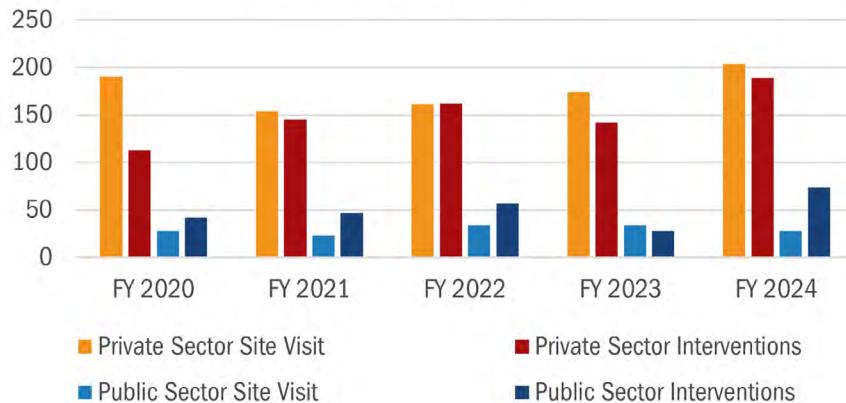


## CONSULTATION PROGRAM

ESD's consultation program performs onsite consultations to identify hazards, improve safety and health programs, and assess worker exposures. Consultations can be requested by any Montana employer with a primary emphasis on small business in high hazard industries. The consultation program conducts site visits, or 'walkthroughs' with the employer as a proactive approach to protect employees. Intervention services are offered outside of the workplace and include technical assistance, training, and education.

In FY 2024, ESD staff performed roughly 490 consultations, more than any prior year: over 230 site visits and 260 interventions. The increase was relatively consistent in all consultation services. The private-public distribution also did not change, with just over 80% of consultation services being provided to private employers. Neither the type of service provided nor the recipient of the service is indicative of long-term trends; both fluctuate according to demand and safety outreach efforts.

Consultation Program, FY20 - FY24

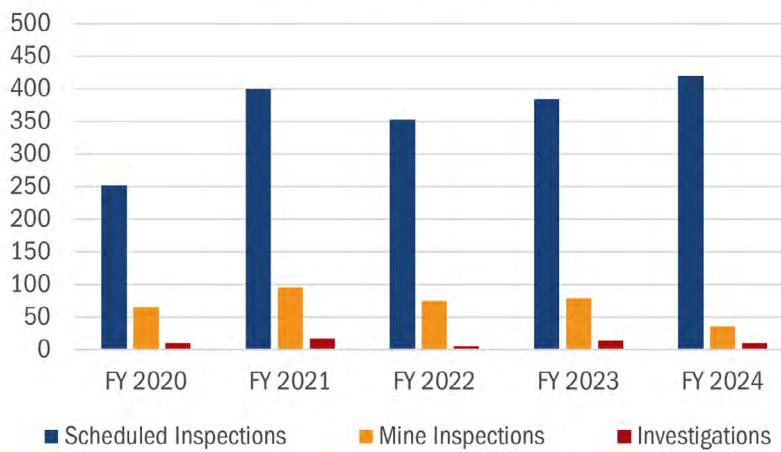


## COMPLIANCE PROGRAM

Staff at ESD inspect all state and local government workplaces periodically to identify hazards and recommend safety improvements. This team also inspects all coal mines and sand and gravel quarries in the state on a regular basis. The inspection activities are similar to OSHA inspections for private businesses and federal agencies, without the threat of enforcing fines for noncompliance. ESD staff also conduct investigations for state and local agencies following internal safety complaints, serious accidents, or workplace fatalities.

The ESD inspectors performed more public-sector inspections in FY 2024 and fewer mine inspections when compared to FY 2023. In FY 2024 there was a decline in investigations, that are triggered by complaints of serious or fatal accidents. This could indicate a decline in serious or fatal accidents in the public-sector. Changes in demand and outreach could change these trends in coming years.

Inspection Program, FY20 - FY24



# 1

## WORKERS' COMPENSATION POLICY



## DECLARATION OF PUBLIC POLICY

An objective of the Montana workers' compensation system is to provide, without regard to fault, wage-loss and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole but are intended to provide assistance to a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

It is the intent of the Legislature to assert that a conclusive presumption exists that recognizes that a holder of a current, valid independent contractor exemption certificate issued by the department is an independent contractor if the person is working under the independent contractor exemption certificate. The holder of an independent contractor exemption certificate waives the rights, benefits, and obligations of this chapter unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3.

A worker's removal from the workforce because of a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

This chapter must be construed according to its terms and not liberally in favor of any party.

It is the intent of the Legislature that a stress claim, often referred to as a "mental-mental claim" or a "mental-physical claim" is not compensable under Montana's workers' compensation and occupational disease laws. The Legislature recognizes these claims are difficult to objectively verify and the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The Legislature also recognizes there are other states not providing compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, and it is within the Legislature's authority to define the limits of the workers' compensation and occupational disease system. However, it is also within the Legislature's authority to recognize the public service provided by firefighters and to join with other states that have extended a presumptive occupational disease recognition to firefighters.

For occupational disease or presumptive occupational disease claims, because of the nature of exposure, workers should not be required to provide notice to employers of the disease as required of injuries and the requirements for filing of claims reflect consideration of when the worker knew or should have known that the worker's condition resulted from an occupational disease or a presumptive occupational disease. The Legislature recognizes that occupational diseases in the workplace are caused by events occurring on more than a single day or work shift and the Legislature has the authority to define an occupational disease or a presumptive occupational disease and establish the causal connection to the workplace. (*Void on occurrence of contingency--sec. 7, Ch. 158, L. 2019.*) **(39-71-105)**

## INSURANCE COVERAGE REQUIREMENTS

The Workers' Compensation Act applies to all employers and to all employees. An employer, as defined in **39-71-117** who has any employee, as defined in **39-71-118**, in service under any appointment or contract of hire, expressed or implied, oral or written, shall elect to be bound by the provisions of compensation plan No. 1, 2, or 3 unless the provisions of **39-71-442**, the extraterritorial exclusion, apply. (**39-71-401**)

## EXTRATERRITORIAL AGREEMENTS

Extraterritorial agreements allow an employer to bring/send employees to another state without being required to purchase workers' compensation insurance in that other state for a temporary period of time. Most all businesses are eligible for extraterritorial coverage, although Montana does not recognize other state's workers' compensation policies within the construction industry (except for Wyoming effective 6/4/2019, Idaho effective 9/16/2021, South Dakota effective 9/7/2022, and Utah effective 7/1/2023). (**39-71-402**)

Montana has ET agreements with seven states. They are North Dakota, South Dakota, Oregon, Idaho, Washington, Wyoming, and Utah. The general rule is an employer may operate in Montana for six months with some extensions and exceptions. Oregon, North Dakota, and Washington have excluded all construction projects from reciprocity. Please visit our [website](#) for more information.

## NORTH DAKOTA EXTRATERRITORIAL OPTION

An employee of an employer in Montana who is employed by the employer to work solely in North Dakota, and who is required by the laws of that state to be covered for workers' compensation purposes while working in that state, is not considered to be an employee in this state covered under Title 39, chapter 71, during any time that the employer maintains workers' compensation coverage for the employee in North Dakota. For purposes of this section, "work solely in North Dakota" means the employee does not perform job duties in Montana and coverage is required by the state

of North Dakota. Travel that is commuting to and from a job site in North Dakota from a location in Montana does not constitute performing job duties in Montana even if the employer pays for all or a portion of the costs of travel or if the worker is paid for the travel time. (**39-71-442**)

## OTHER EXCLUSIONS

The Workers' Compensation Act may exclude from the definition of employee the services listed below:

- Voluntary service at a recreational facility and receiving no compensation for those services other than meals, lodging, or the use of the recreational facilities;
- Services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2) (b), "volunteer" means a person who performs services on behalf of an employer, as defined in **39-71-117**, but who does not receive wages as defined in **39-71-123**;
- A foster parent, licensed as a foster care provider in accordance with **52-2-621**, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care;
- Or temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under **39-71-401(2)(r)** with respect to a company that primarily performs agricultural work at a fixed business location or under **39-71-401(2)(d)** and is not required to obtain an independent contractor's exemption certificate under **39-71-417** because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in **15-1-101(1)(a)**. (**39-71-118**)

## EMPLOYMENTS EXEMPTED

Unless an employer elects coverage for these employments and the insurer allows an election, the Workers' Compensation Act does not apply to any of the following:

- Household or domestic employment;
- Casual employment;
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code;
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company (some exceptions);
- Real estate, securities or insurance salesperson paid solely by a commission without a guarantee of minimum earnings;
- A direct seller as defined by 26 U.S.C. 3508;
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;
- A person performing services in return for aid or sustenance only, except employment of search and rescue volunteers;
- Employment with a railroad engaged in interstate commerce, except railroad construction work;
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event;
- A person performing services as a newspaper carrier or freelance correspondent if acknowledged in writing that the services are not covered;
- Cosmetologist's services and barber's services;
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51%

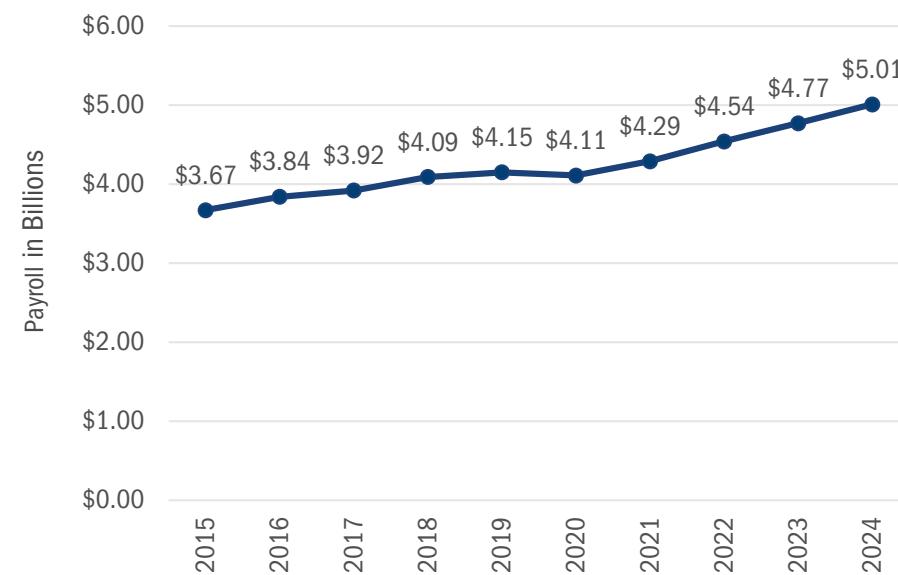
owned by an enrolled tribal member or members, whose business is conducted solely within the reservation;

- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race, through the time weighed out, and has acknowledged in writing that the jockey is not covered while performing services as a jockey;
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet;
- An employer's spouse;
- A petroleum land professional;
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company;
- A person who is an officer or a manager of a ditch company;
- Service performed by an ordained, commissioned or licensed minister of a church;
- Providers of companionship services or respite care, if a family member or legal guardian employs the person providing care;
- A person performing services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meet the definition of a broker or freight forwarder;
- A person who is not an employee or worker in Montana;
- Independent contractors who are working under a current, valid, independent contractor exemption certificate from the Department;
- An athlete employed by or on a team or sports club engaged in a contact sport; or
- A musician performing under a written contract. **(39-71-401)**

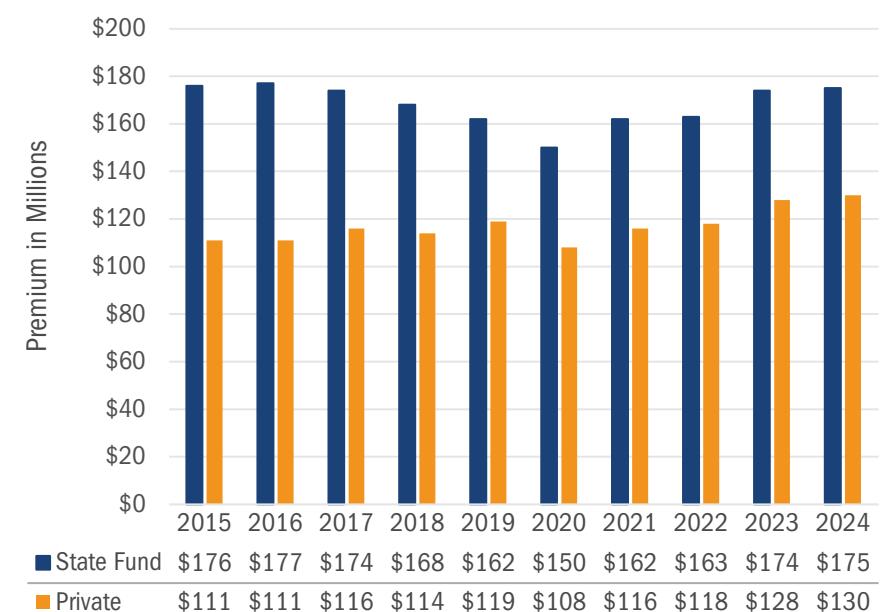
## WORKERS' COMPENSATION MARKET

Montana employers have three options for securing workers' compensation coverage for their employees. Employers that meet the department's financial requirements may be approved to become self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Employers may also obtain coverage with private insurance companies (Plan 2) in the voluntary market. Finally, employers can insure through Montana State Fund (Plan 3). Montana State Fund's role as the guaranteed market provides assurance that all Montana employers can provide workers' compensation insurance coverage for their employees.

**Figure 1.1** Gross Annual Payroll for Self-Insured Employers



**Figure 1.2** Annual Premium Market Share for Private Insurance Companies and Montana State Fund



# 2

## EMPLOYMENT STANDARDS DIVISION



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The Employment Standards Division (ESD) provides a wide variety of services and regulations including research and data management, continuous improvement, fiscal and support, business compliance, inspections, workers' compensation, safety compliance and consultation, investigations, wage and hour, professional licensing, human rights, and dispute resolution. ESD now includes services for building and commercial measurement and professional and occupational licensing. To find out more about ESD please visit the webpage: [erd.dli.mt.gov](http://erd.dli.mt.gov).

The administration of the Workers' Compensation Act is funded by an assessment to employers who self-insure and a surcharge paid by employers who are insured by private insurance companies or the Montana State Fund. Section **39-71-201, MCA** provides the administration assessment may be up to 4% of benefits paid during the preceding calendar year for injuries and occupational diseases covered under the Workers' Compensation Act, without regard to the application of any deductible and whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of \$200,000 per occurrence, which are exempt from the assessment).

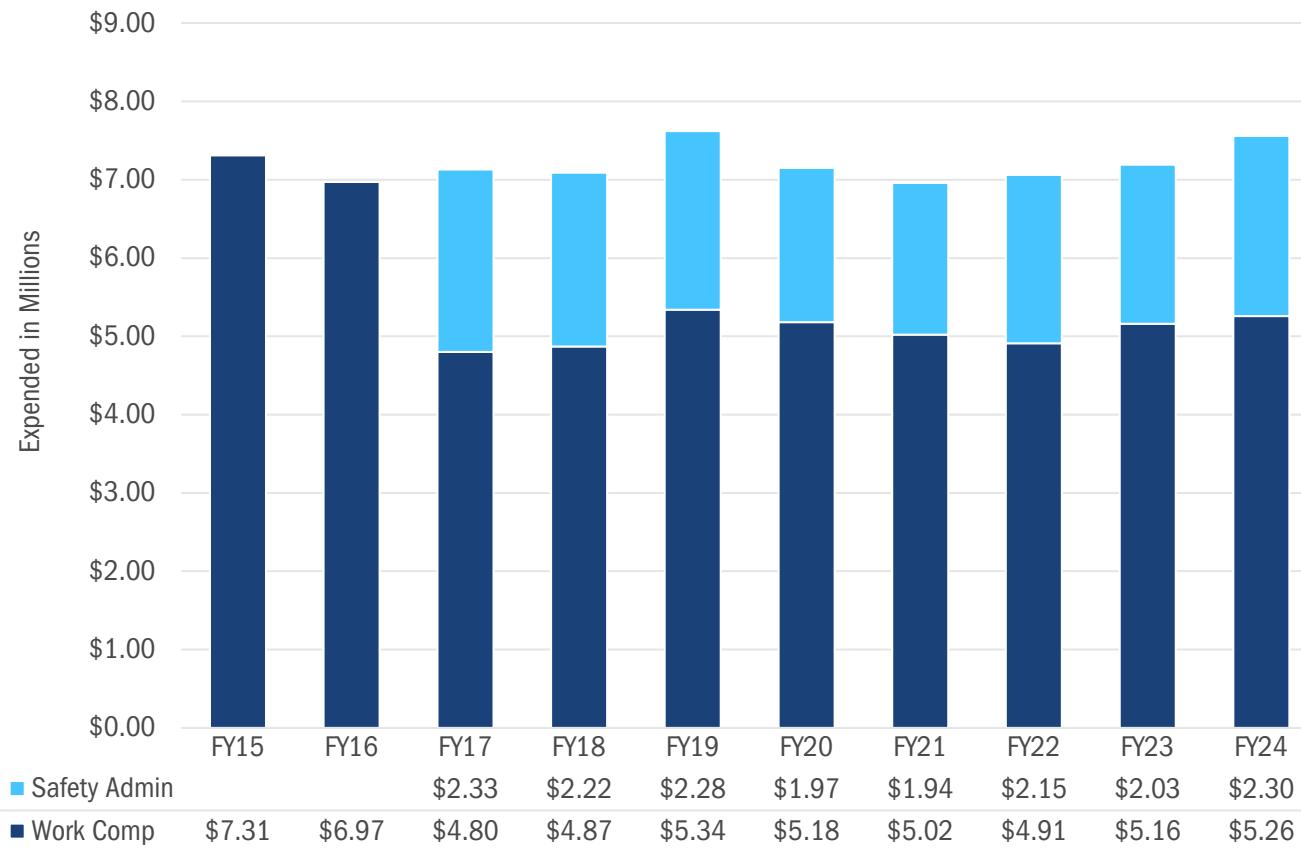
Functions funded by the administrative assessment include:

- Legal functions of the Workers' Compensation Court, Office of Administrative Hearings, and Office of Legal Services;
- A portion of the Research & Analysis Bureau in the Workforce Services Division; and
- Administration of the Employment Standards Division and workers' compensation functions, including the workers' compensation database, claims management, data analysis, mediation, medical regulations, self-insurance, carrier compliance, Professional Employer Organizations, and Managed Care Organizations.

Beginning July 1, 2016, a separate assessment for the occupational safety and health administration fund applies to employers who self-insure and a surcharge paid by employers who are insured by private insurance companies or the Montana State Fund. Section **50-71-128, MCA**, provides the safety assessment may be up to 2% of benefits paid during the preceding calendar year to fund occupational safety and health administrative and regulatory activities.

## WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

Figure 2.1 Workers' Compensation and Safety Administration Assessments as Expended by Fiscal Year

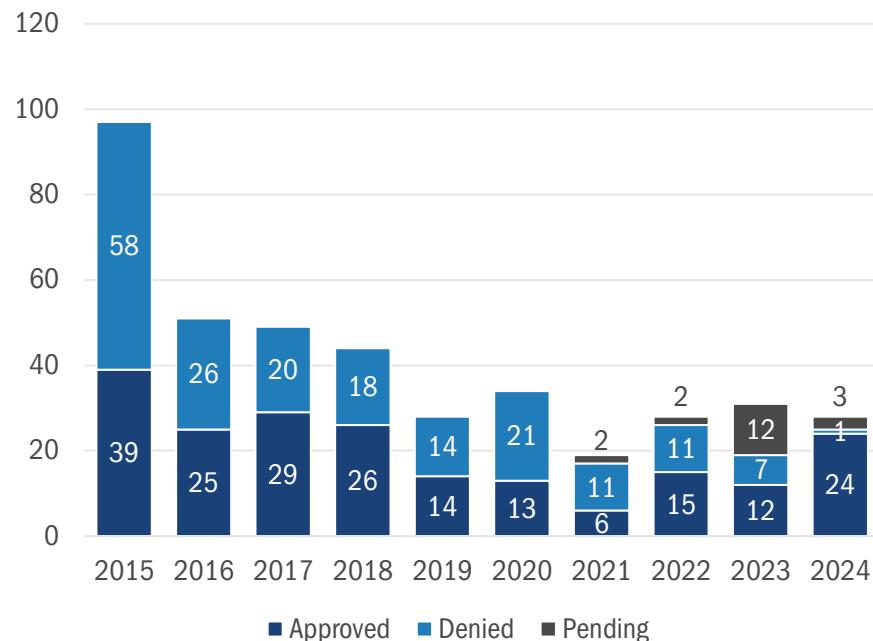


## SUBSEQUENT INJURY FUND (SIF)

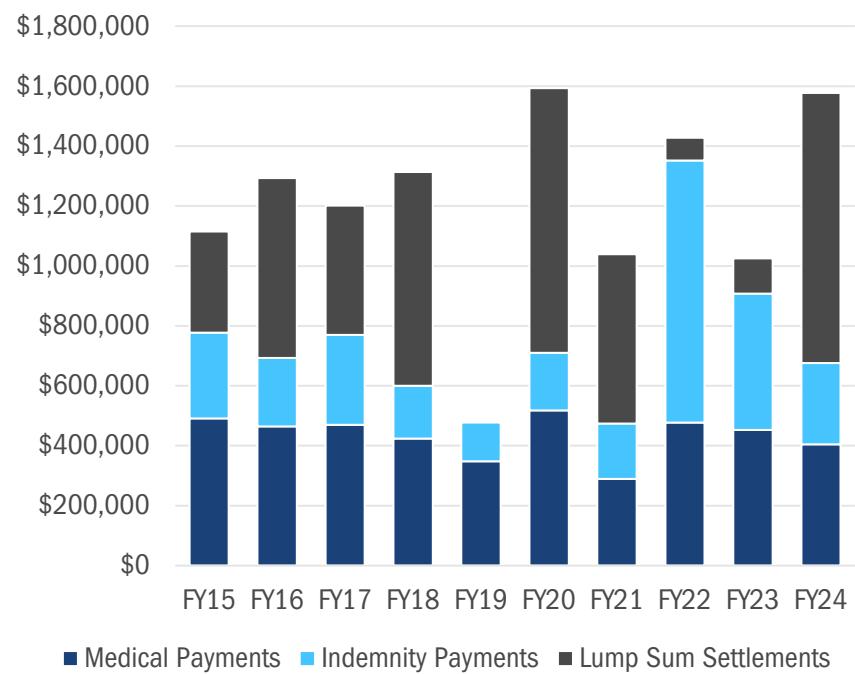
The Legislature established the Subsequent Injury Fund in 1973 to assist persons with medically certified permanent disabilities become employed by offering a financial incentive to employers who hire certified workers.

The Fund is generated through an annual assessment of all Montana insurers (Plans 1, 2 and 3). The assessment is allocated among insurers based on their compensation and medical payments for the previous calendar year.

**Figure 2.2 SIF Applications by Year**



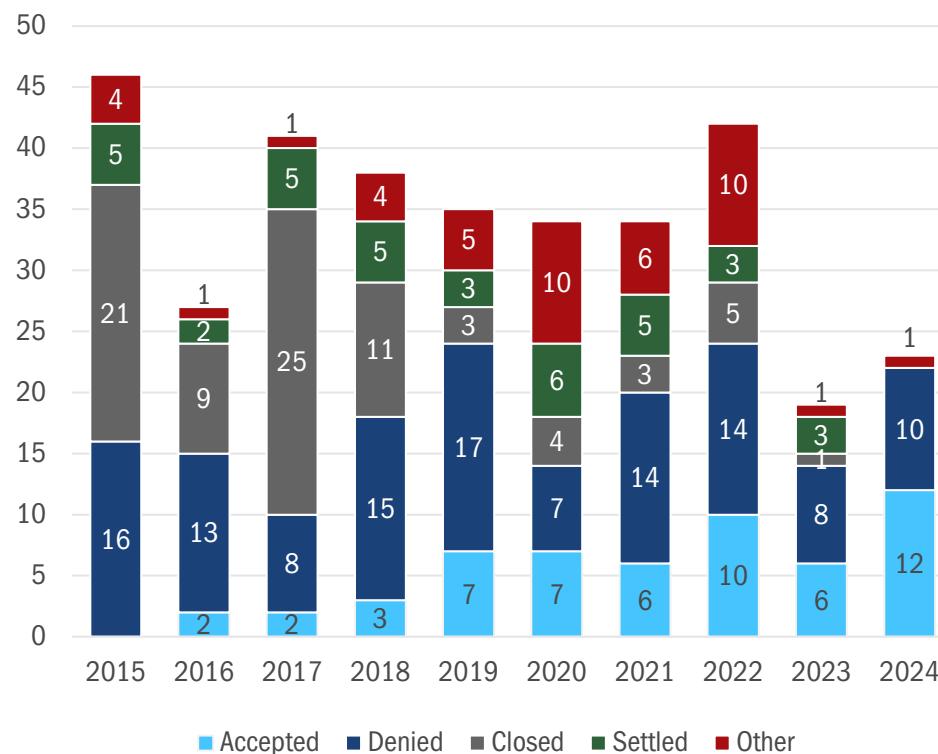
**Figure 2.3 SIF Payments by Fiscal Year**



## UNINSURED EMPLOYERS' FUND

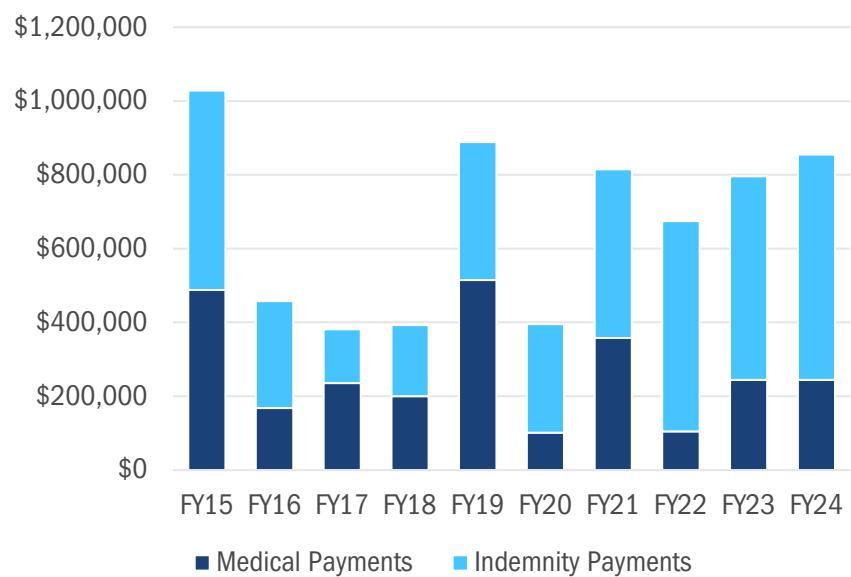
The Uninsured Employers' Fund (UEF) exists to provide benefits to employees injured on the job while working for an uninsured employer. The purpose is to pay the injured worker the same benefits the worker would receive had the employer been covered with workers' compensation. The employer is held liable for 100% of the medical and wage loss benefits of the injured worker and could face civil action by the injured employee as well. Another prime concern of the UEF is to ensure employers comply

**Figure 2.4** UEF Claims by Injury Year



with workers' compensation laws so employees are properly covered. The benefits paid to injured employees of uninsured employers are collected as a penalty from the uninsured employer. Uninsured employers may be assessed double the premium they would have paid had they been carrying workers' compensation insurance, with a minimum penalty of \$200.

**Figure 2.5** UEF Medical and Indemnity Payments by Payment Fiscal Year



## CONSTRUCTION CONTRACTOR REGISTRATION

Construction Contractor Registration (CR) helps level the playing field in the construction industry by assuring that all construction contractors are in compliance with the Montana Workers' Compensation Act. It applies to all businesses in the building and construction industry that have employees.

## INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

An independent contractor is a worker free from control or direction from a hiring agent, engaged in their own independently established business, occupation, trade, or profession that is covered under a self-elected workers' compensation insurance policy or obtain an Independent Contractor Exemption Certificate (ICEC).

Figure 2.6 Active Registered Construction Contractors by Year

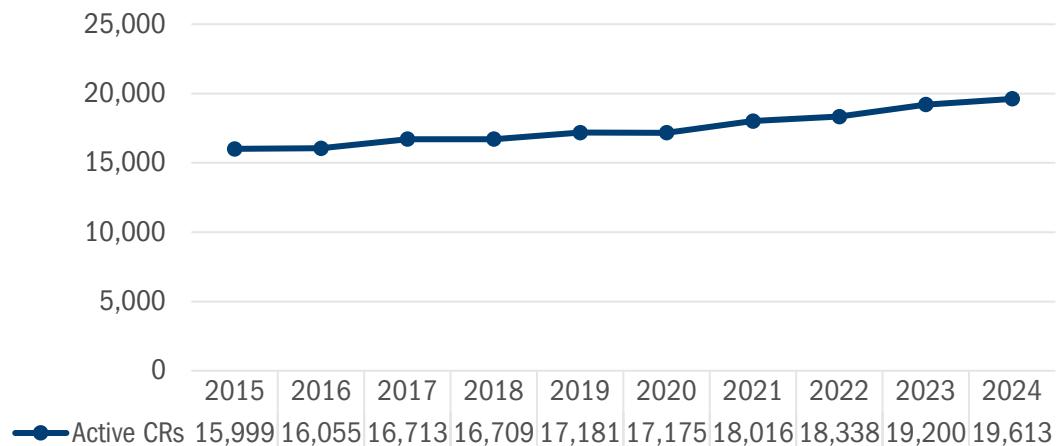
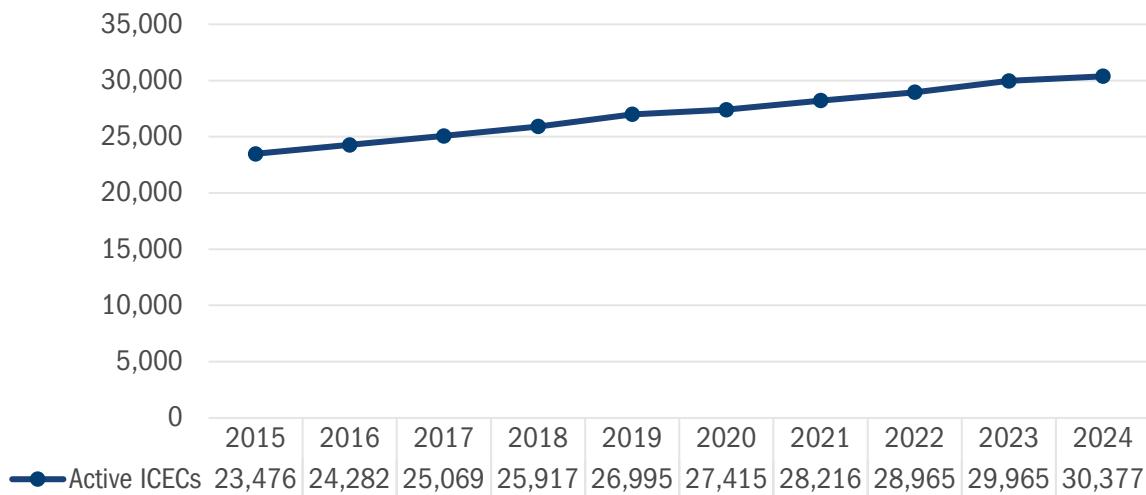


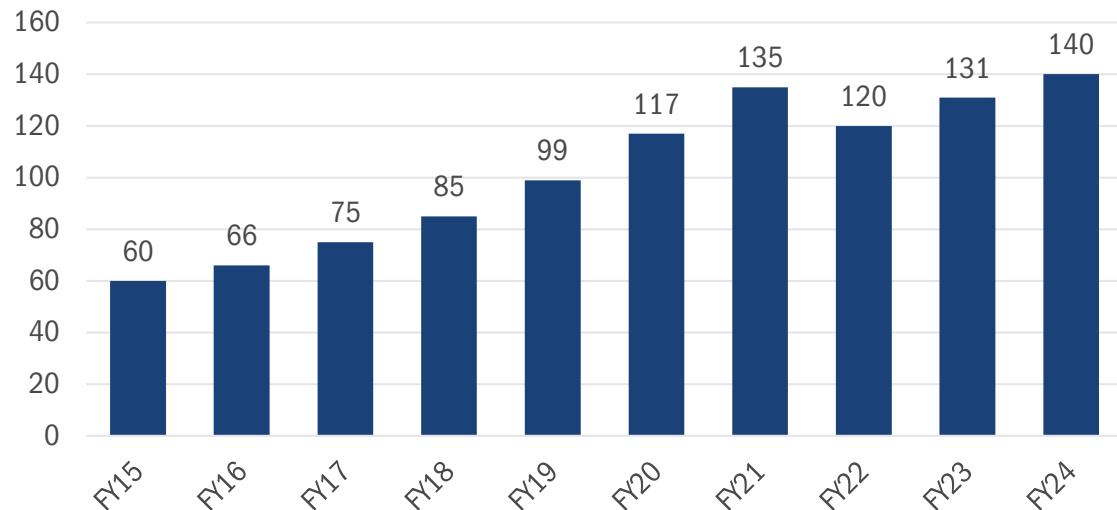
Figure 2.7 Active Independent Contractor Exemptions



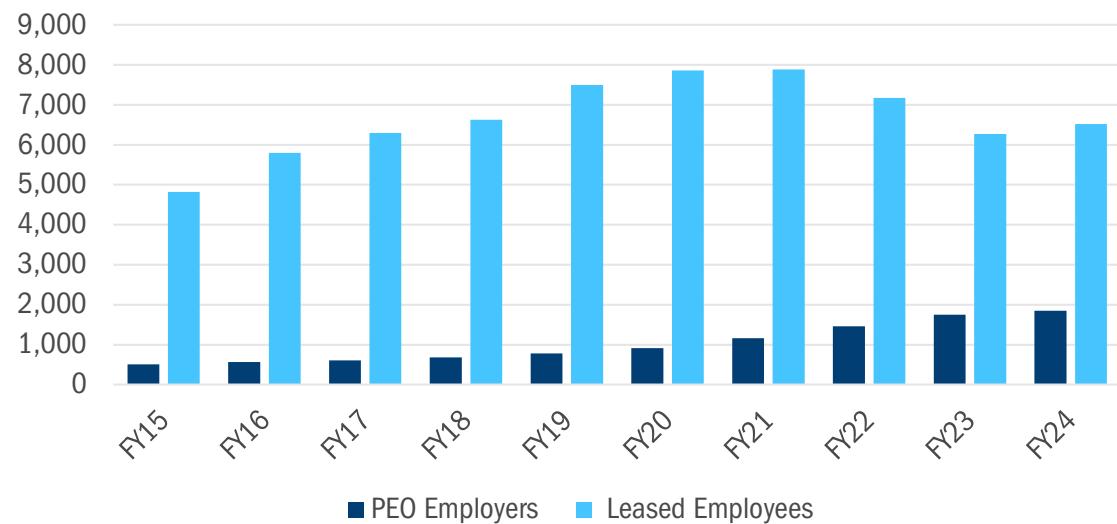
## PROFESSIONAL EMPLOYER ORGANIZATIONS (PEO)

A Professional Employer Organization (PEO) is a business that leases employees to other businesses. A PEO manages the paperwork responsibilities associated with having employees. PEOs pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, they become the employer of record. The client company in return pays the PEO employee costs plus an administrative fee.

**Figure 2.8** Professional Employer Organizations by Fiscal Year



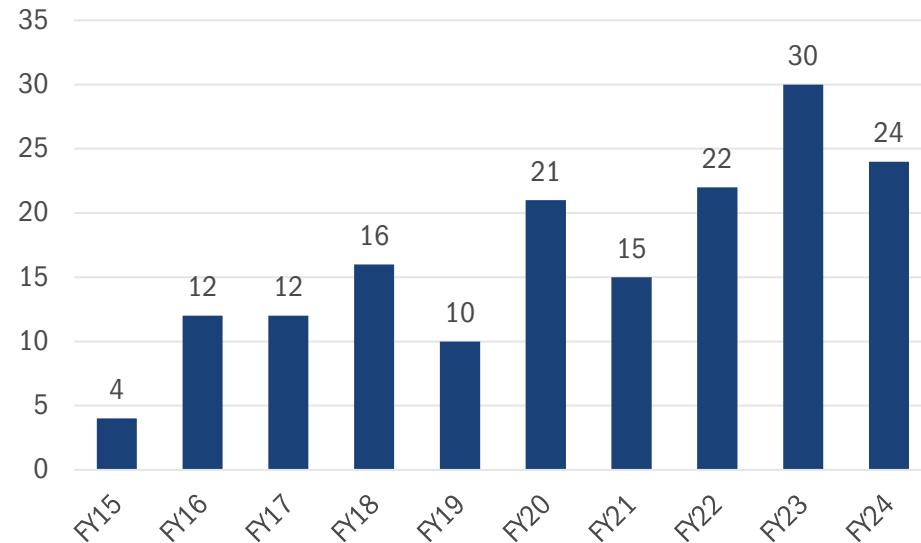
**Figure 2.9** Professional Employer Organizations by Fiscal Year



## CLAIMS EXAMINER CERTIFICATION

The Claims Examiner Certification (CEC) Program was established in 2009 (**39-71-320, MCA**), creating a voluntary certification for workers' compensation claims examiners in Montana. It provided a minimum qualification, an examination, a two-year certification and renewal process, continuing education requirements, and standards for the qualification of instructors. In 2019, legislation changed the CEC process from voluntary to mandatory (**ARM 24.29.824**).

**Figure 2.10** Claims Examiners Certified by Fiscal Year



# 3

## INJURY CHARACTERISTICS

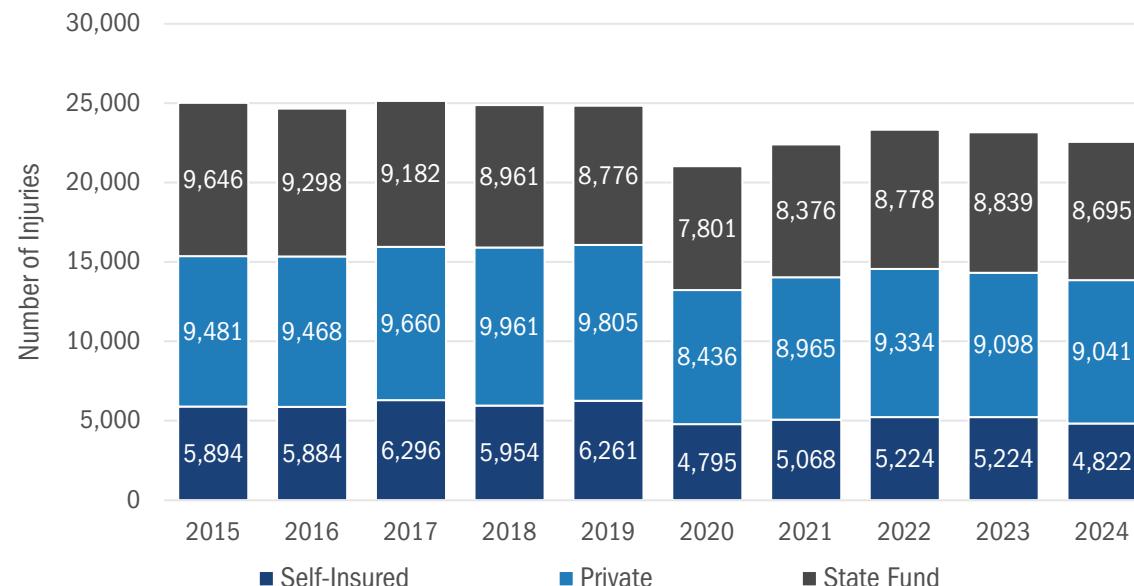


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## REPORTED INJURIES

Montana has experienced declines in the frequency of reported work-related injuries, according to trends in First Reports of Injury (FROIs). The drastic decline in 2020 was due to the impact of COVID-19 (figure 3.1). Between 2015 and 2024 reported injuries declined 10%.

**Figure 3.1** Reported Injuries by Plan Type and Injury Year



**Figure 3.2** Reported Injuries by Age at Injury

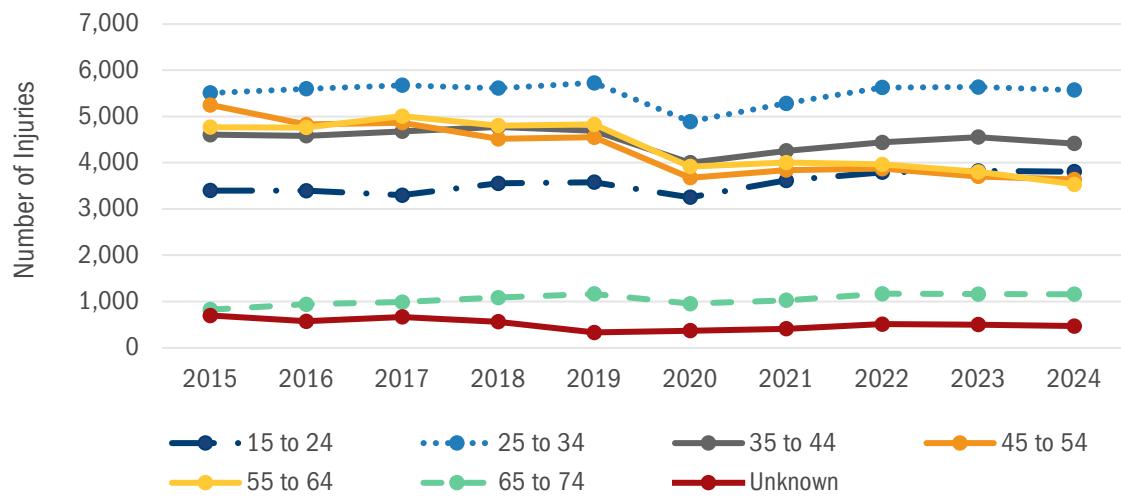
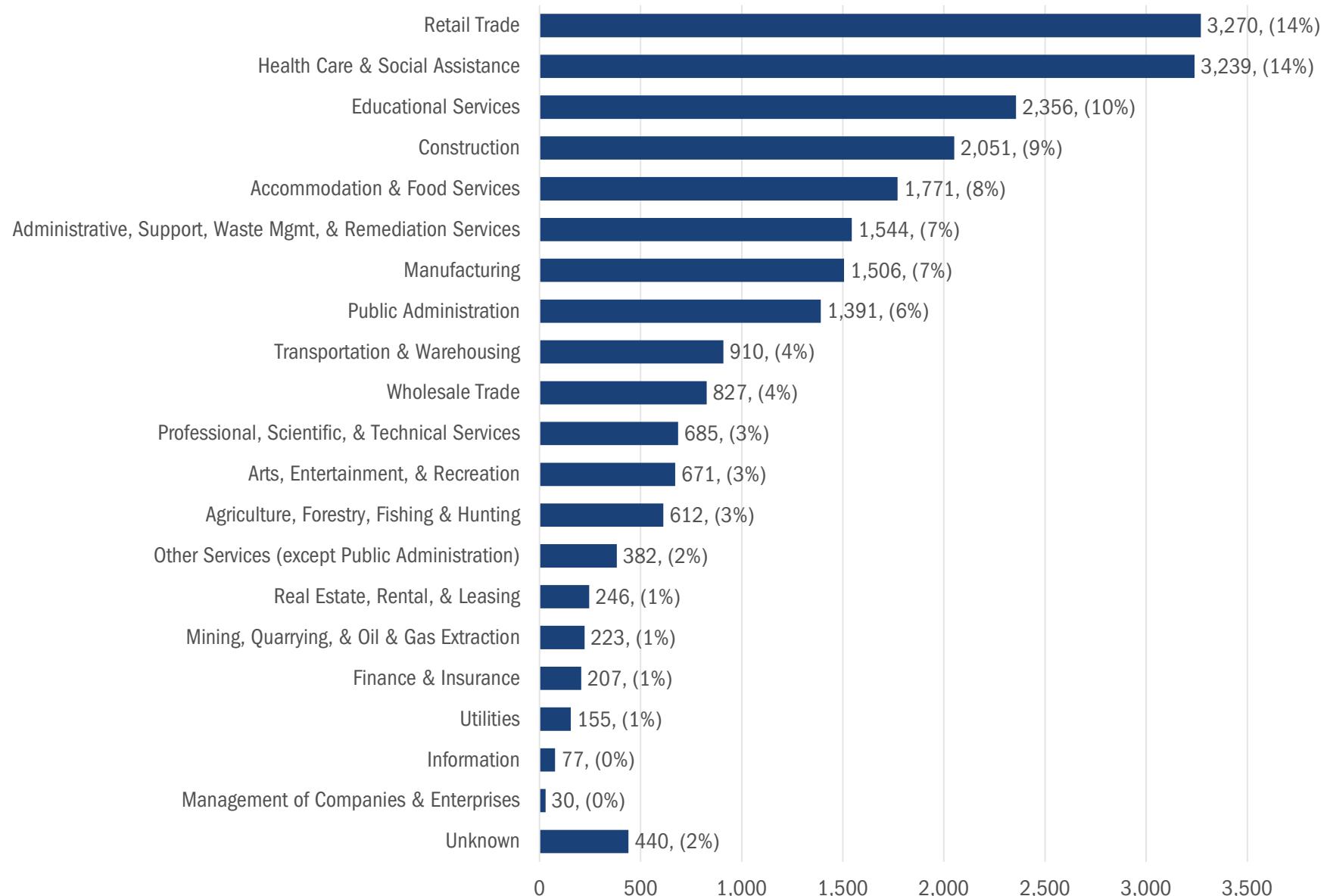
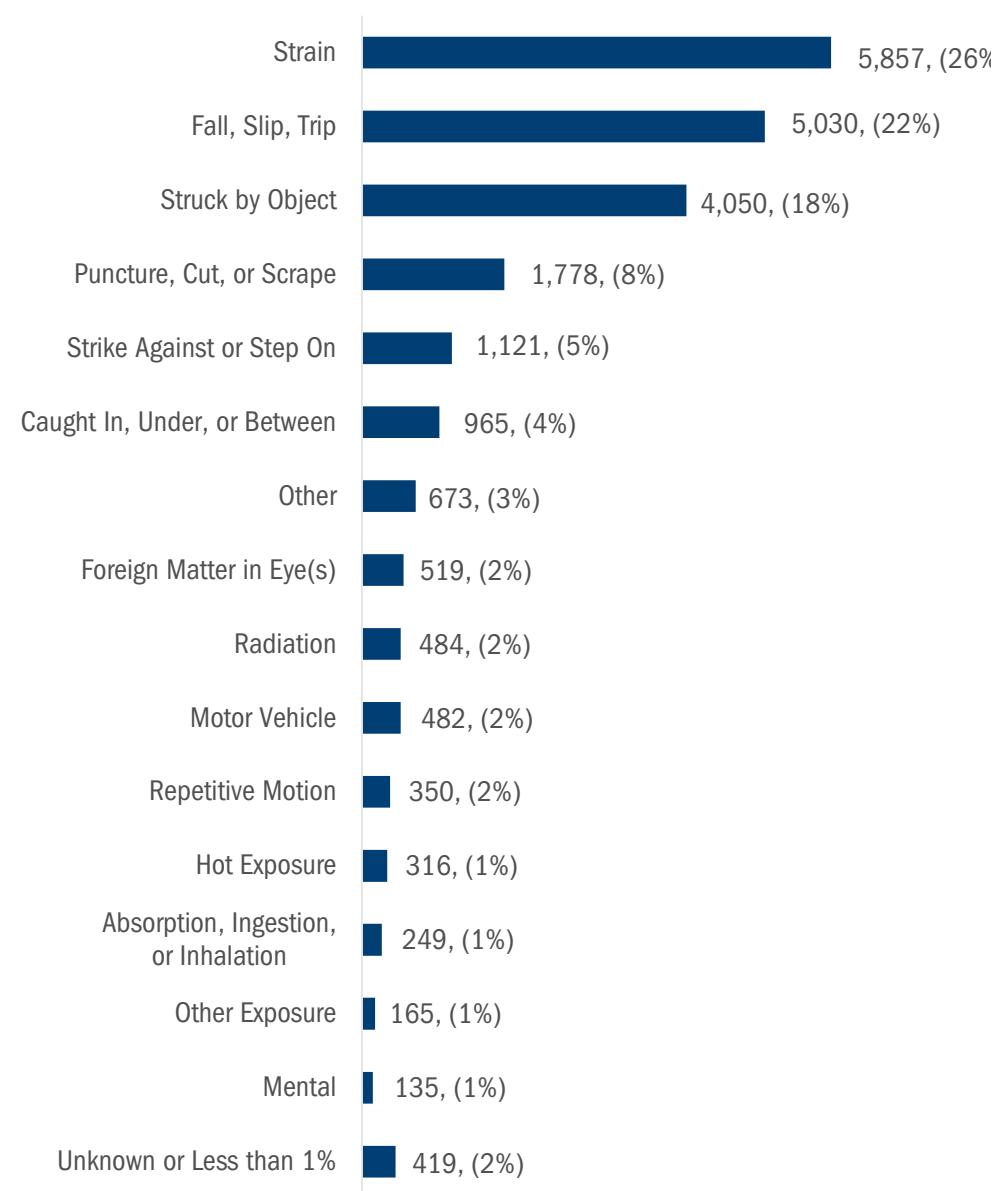


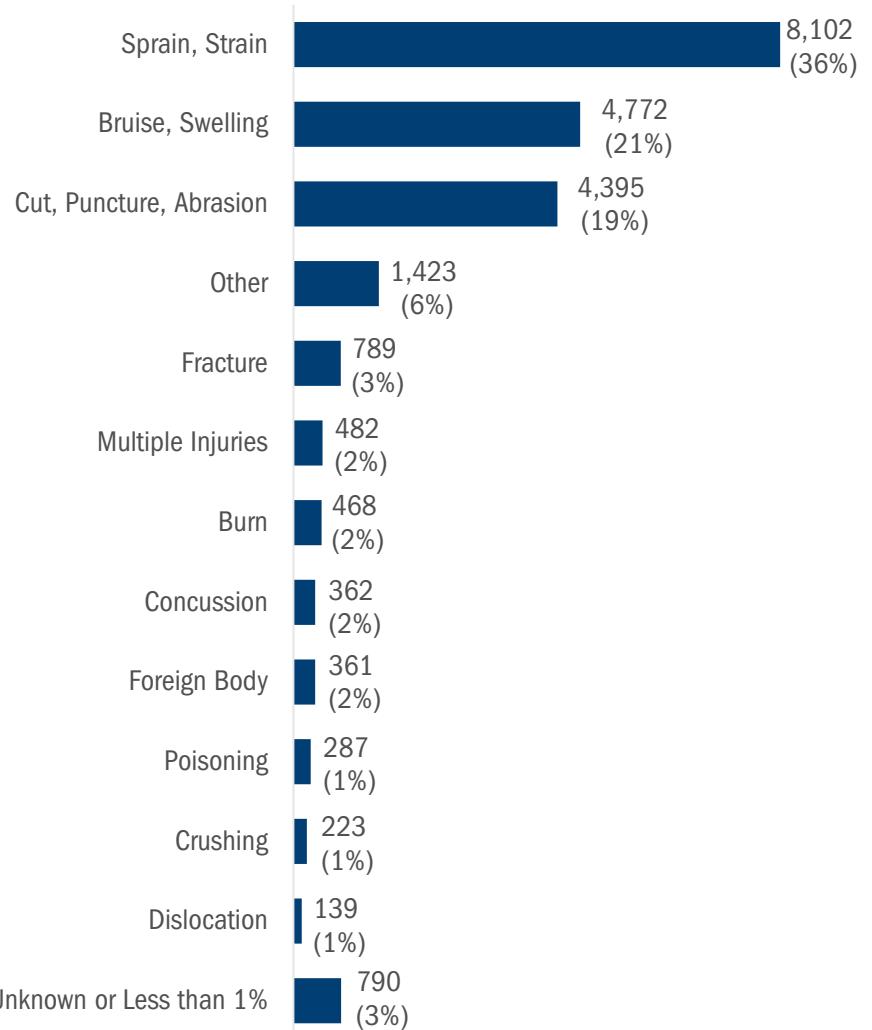
Figure 3.3 Reported Injuries by Industry Groups, 2024



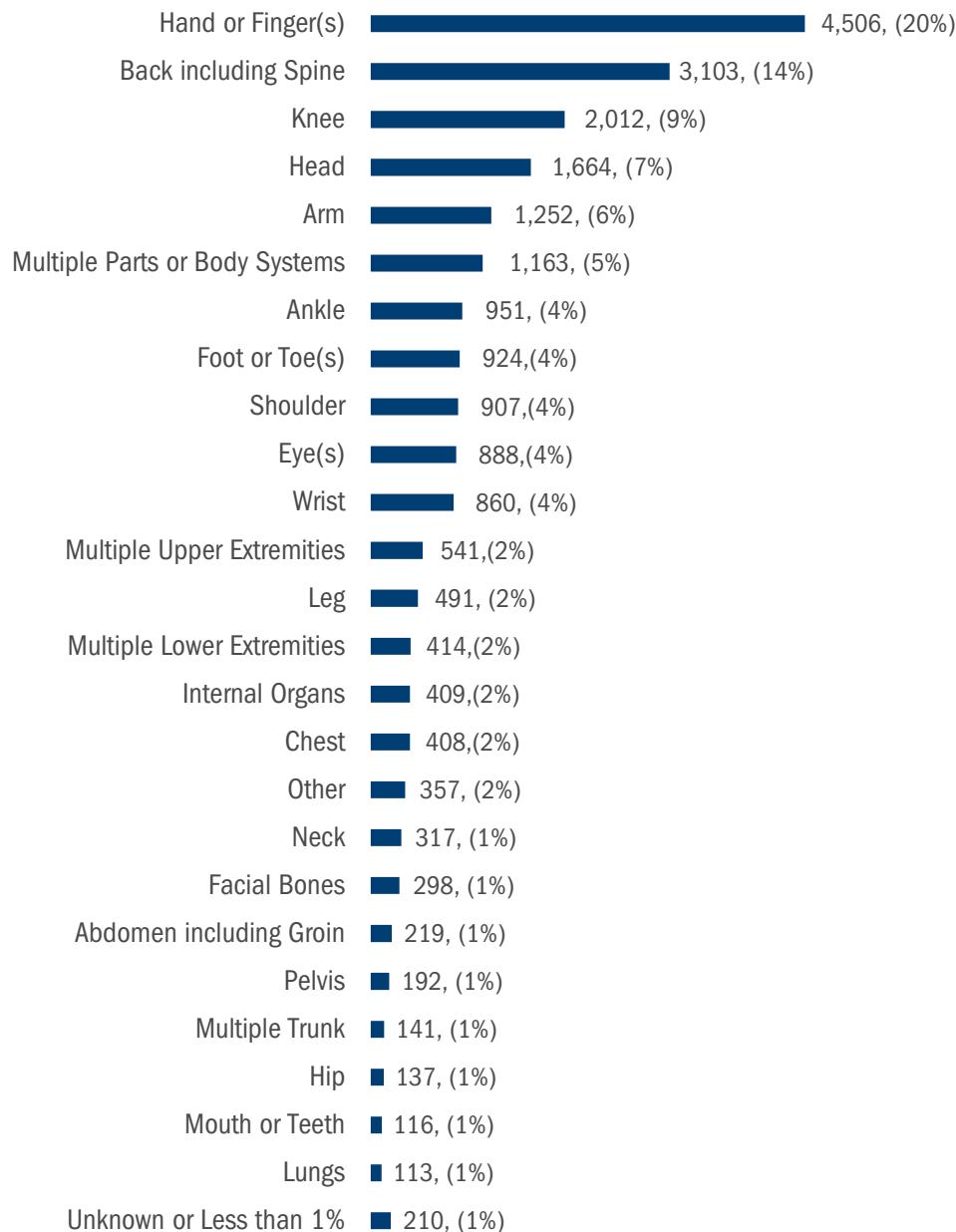
**Figure 3.4 Reported Injuries by Cause Codes in Groups, 2024**



**Figure 3.5 Reported Injuries by Natures Code in Groups, 2024**

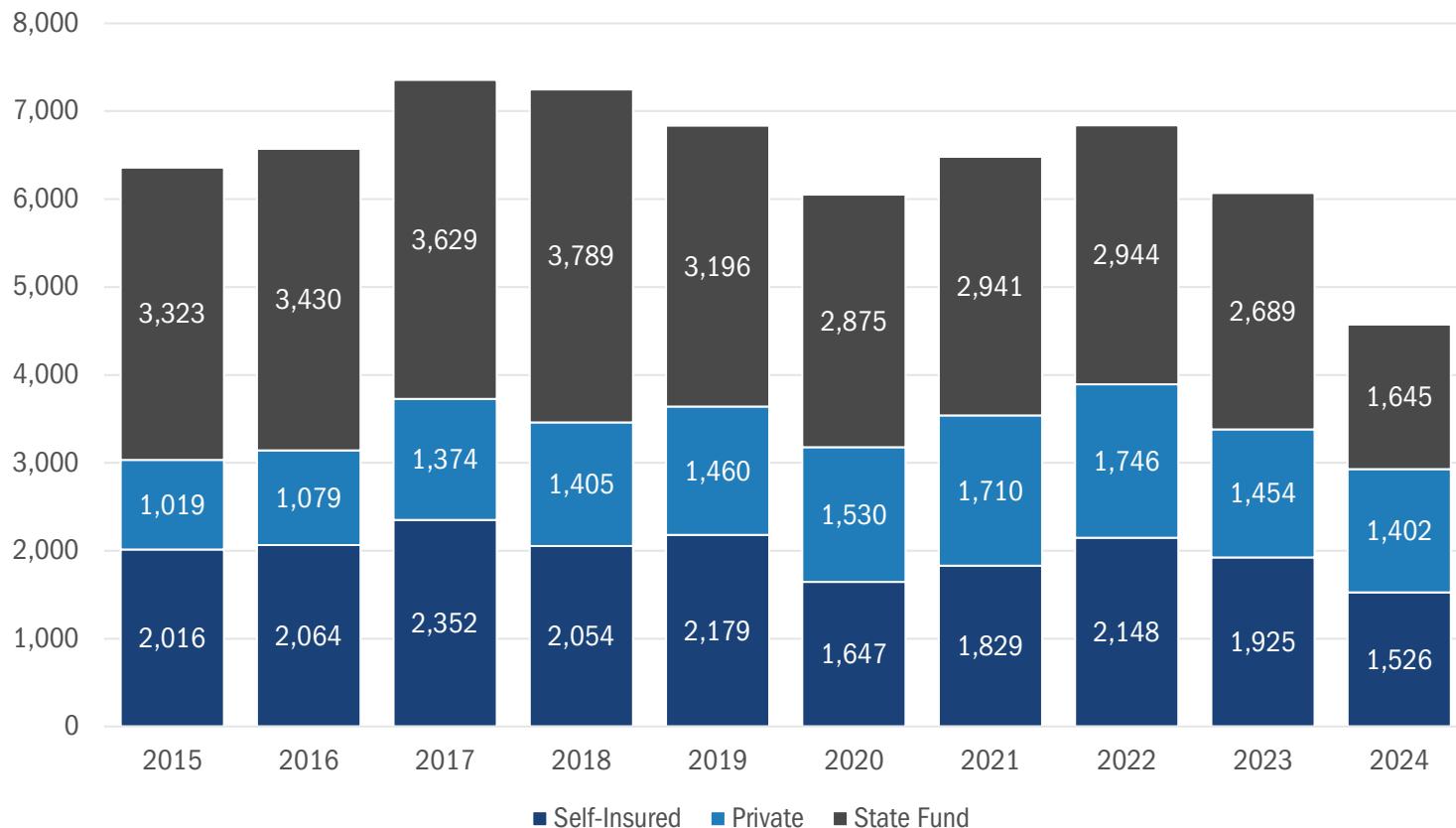


**Figure 3.6 Reported Injuries by Part of Body Codes in Groups, 2024**



## DENIALS

Figure 3.7 Denials by Claim, Plan, and Injury Year



# 4

## BENEFITS



Prickly Pear Cactus

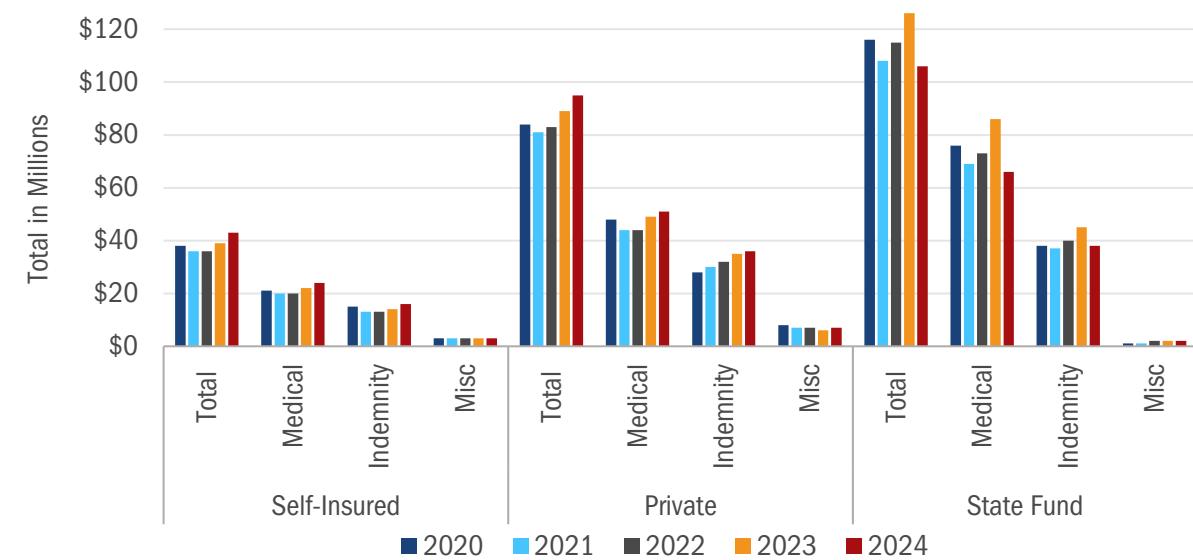
## TOTAL BENEFITS

The total benefits paid for each year are compiled from the total dollars that insurers report paid in that year for medical (including medical in excess of \$200,000), indemnity, and miscellaneous expenses, regardless of the original date of injury. This data is compiled from Quarterly Expenditure Reports (QERs) submitted to the department by workers' compensation insurers or by administrators on the insurers' behalf. (39-71-306, MCA).

Figure 4.1 Total Benefits Paid by Year of Payment in Millions



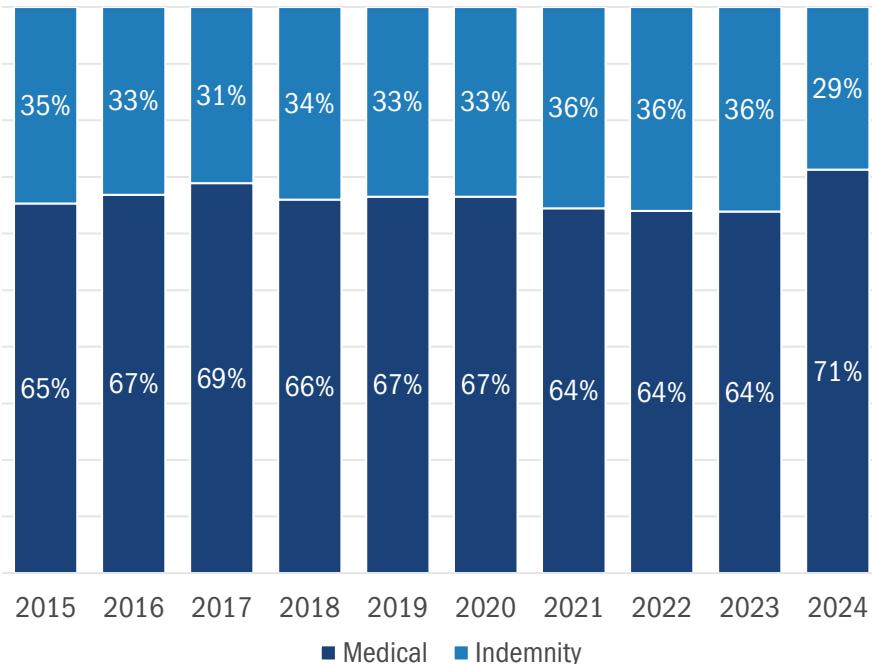
Figure 4.2 Total Benefits Paid by Plan Type and Year of Payment in Millions



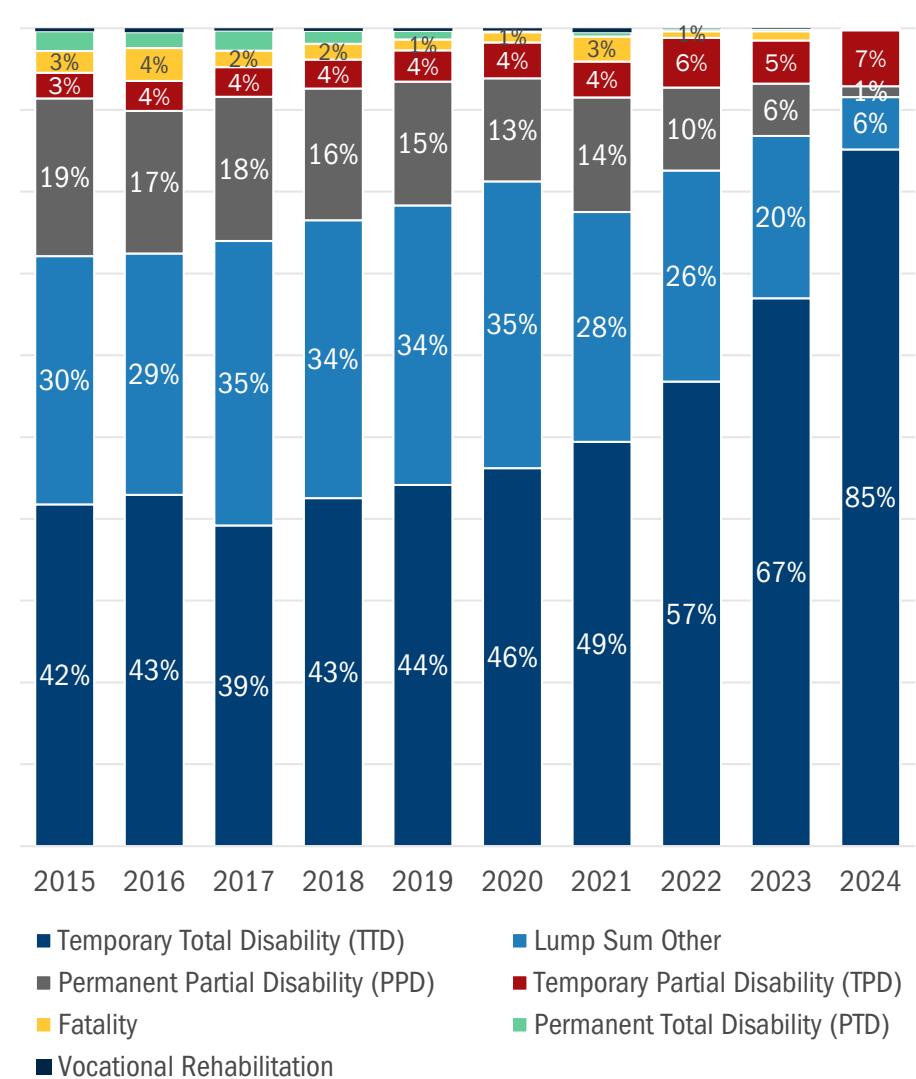
## BENEFIT DISTRIBUTIONS

Data in this section is from information reported on Subsequent Reports of Injury (SROIs) to the Employment Standards Division.

**Figure 4.3 Percentage of Medical and Indemnity Benefits Paid by Year of Injury**



**Figure 4.4 Percentage of Indemnity Benefits Paid by Benefit and Injury Year**



## TEMPORARY DISABILITY PAID DURATION

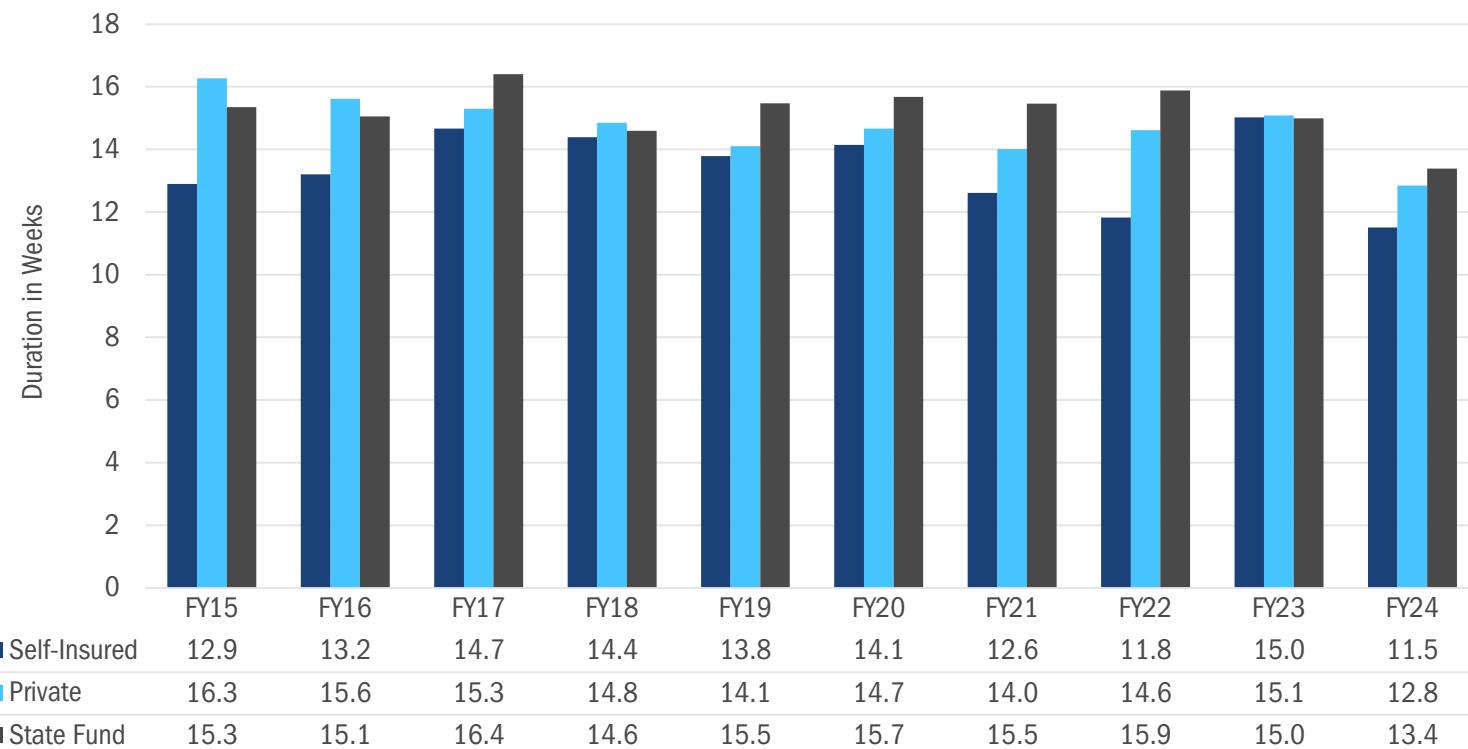
Paid disability duration is calculated by Temporary Total Disability (TTD) payments plus Temporary Partial Disability (TPD) payments on each injury divided by the reported weekly benefit rate for each injury. The weekly benefit rate value was chosen through the following rules:

- If TTD Weekly Benefit Rate (WBR) was available; TTD WBR was used for both TTD and TPD;
- If TTD WBR was not available, TPD WBR was used for both TTD and TPD;

- If neither TTD WBR nor TPD WBR was available, cases were excluded.
- High (more than \$1,034) or extremely low weekly benefit rate (less than \$60) values were excluded from the analysis. For one-year maturity, claims were capped at 52 weeks.

The duration calculated for the most current year will change as claims mature.

**Figure 4.5** Temporary Disability Paid Duration (Weeks) – One Year Maturity by Plan Type and Injury Year

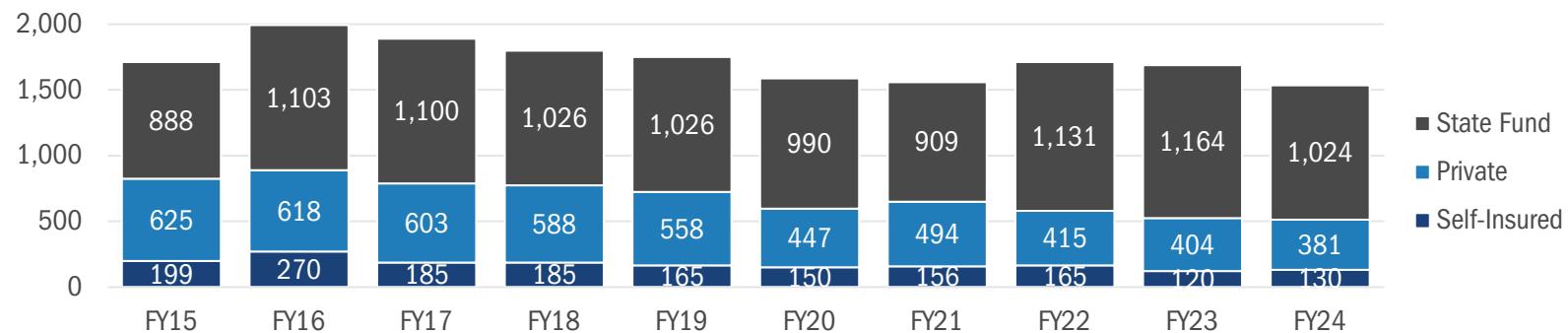


## SETTLEMENTS

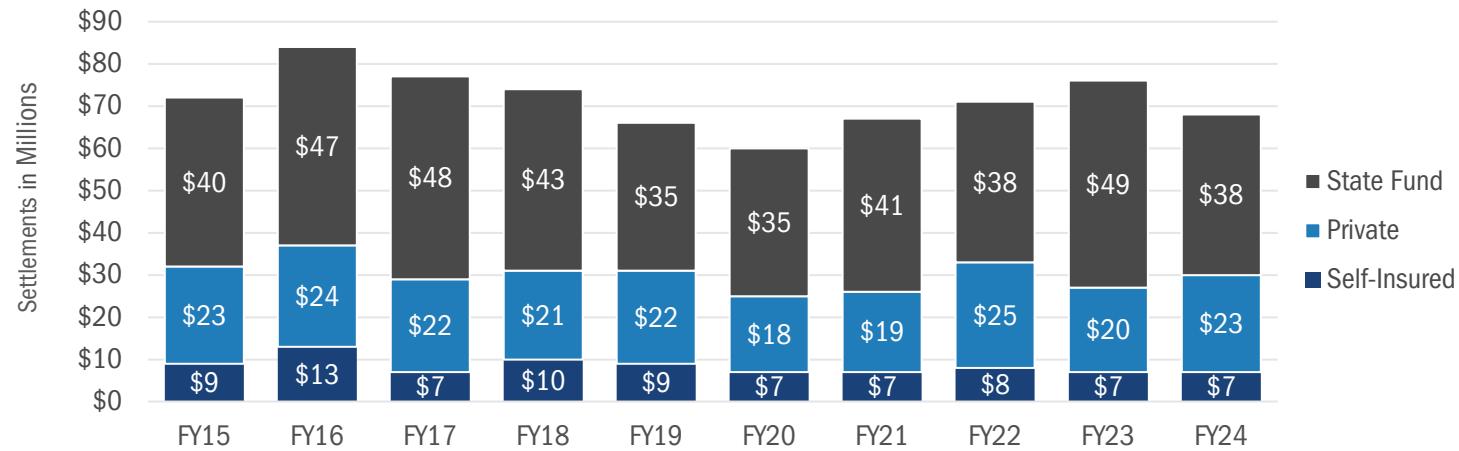
Settlements are lump sum payments of indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement

may handle more than one of those claims. Included in the dollar amount of the settlements is the money specified for settlement of medical benefits under “best interest”. Now **included** in this section are settlements from the workers’ compensation court.

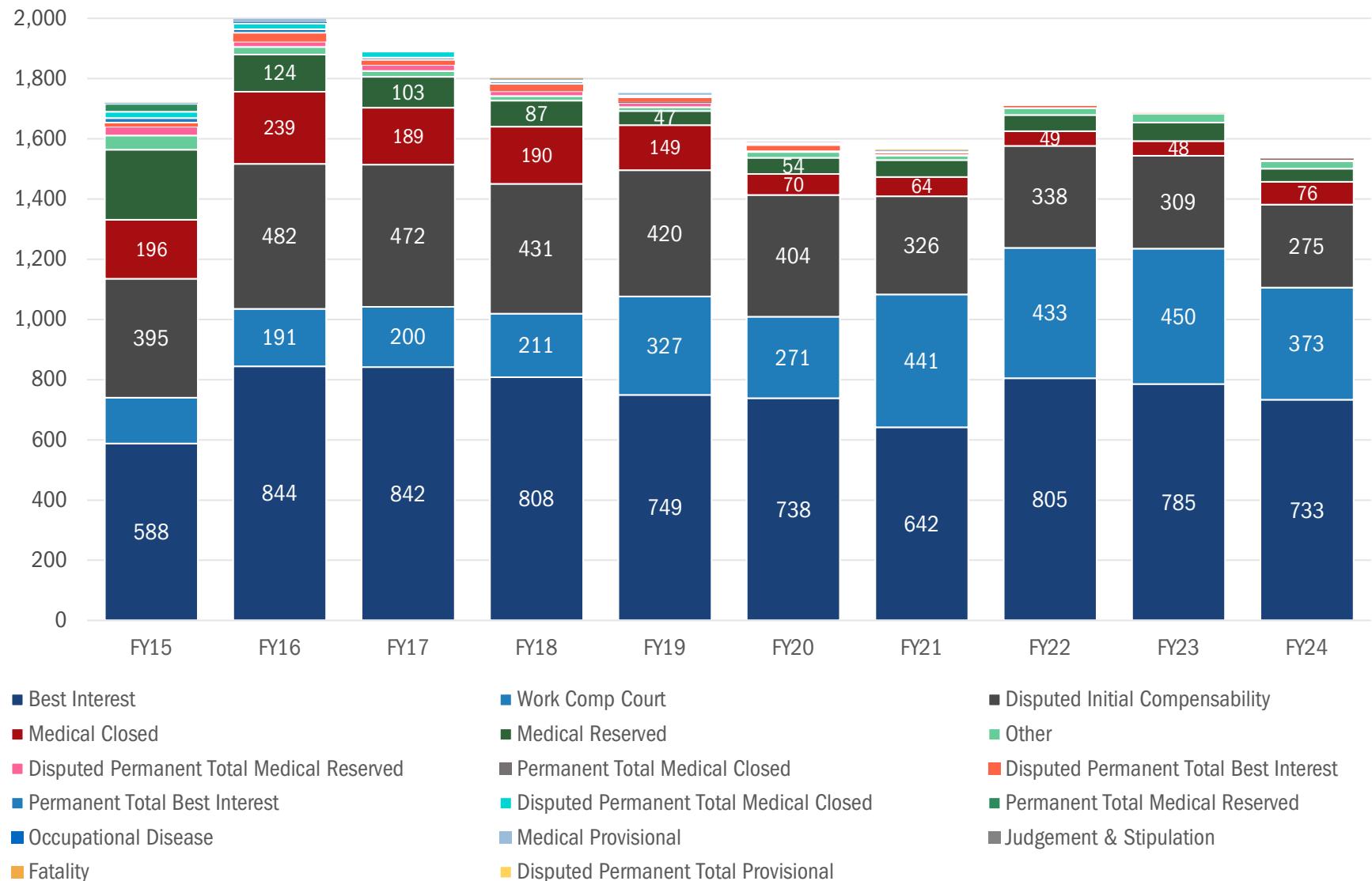
**Figure 4.6 Number of Settlements by Plan Type and Fiscal Year of Decision**



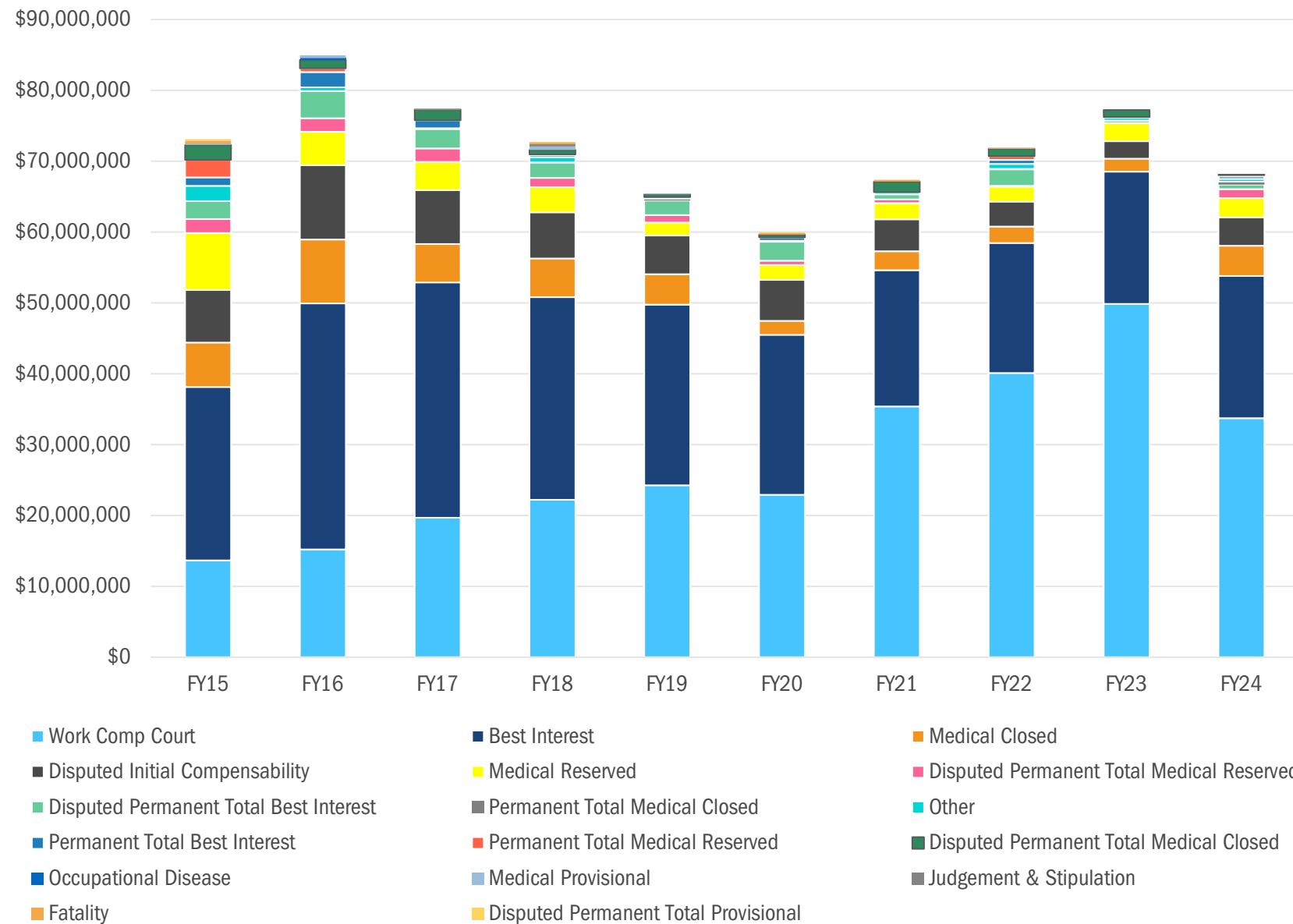
**Figure 4.7 Dollars Settled in Millions by Plan Type and Fiscal Year of Decision**



**Figure 4.8 Number of Settlements by Type and Fiscal Year of Decision**



**Figure 4.9 Dollars Settled by Settlement Type and Fiscal Year of Decision**



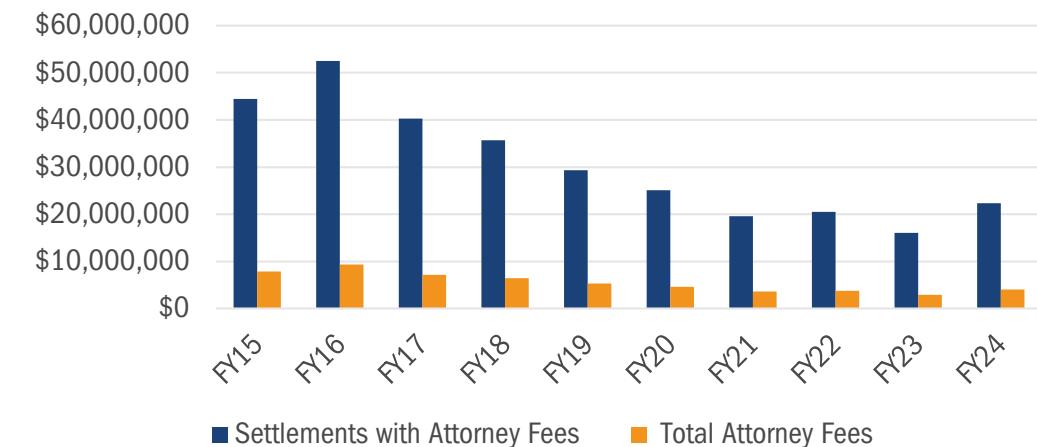
## ATTORNEY FEE SETTLEMENTS

The Employment Standards Division does not receive attorney fees on settlements from the workers' compensation court and are **not included**.

**Figure 4.10** Attorney Fees and Settlements by Fiscal Year of Settlement

Fiscal Year	Number of Settlements	Total Settled	Total Attorney Fees	Fee/ Settlement Percentage
FY15	900	\$44,443,172	\$7,855,899	18%
FY16	1,055	\$52,514,437	\$9,327,262	18%
FY17	940	\$40,268,919	\$7,158,340	18%
FY18	864	\$35,710,711	\$6,444,191	18%
FY19	662	\$29,338,255	\$5,343,858	18%
FY20	602	\$25,125,067	\$4,624,423	18%
FY21	454	\$19,609,397	\$3,606,920	18%
FY22	389	\$20,518,288	\$3,768,933	18%
FY23	370	\$16,096,053	\$2,942,004	18%
FY24	362	\$22,336,839	\$4,071,546	18%
<b>Total</b>	<b>6,598</b>	<b>\$305,961,140</b>	<b>\$55,143,376</b>	<b>18%</b>

**Figure 4.11** Attorney Fees and Settlements by Fiscal Year of Settlement



# 5

## DISPUTE RESOLUTION



Scarlet Paintbrush

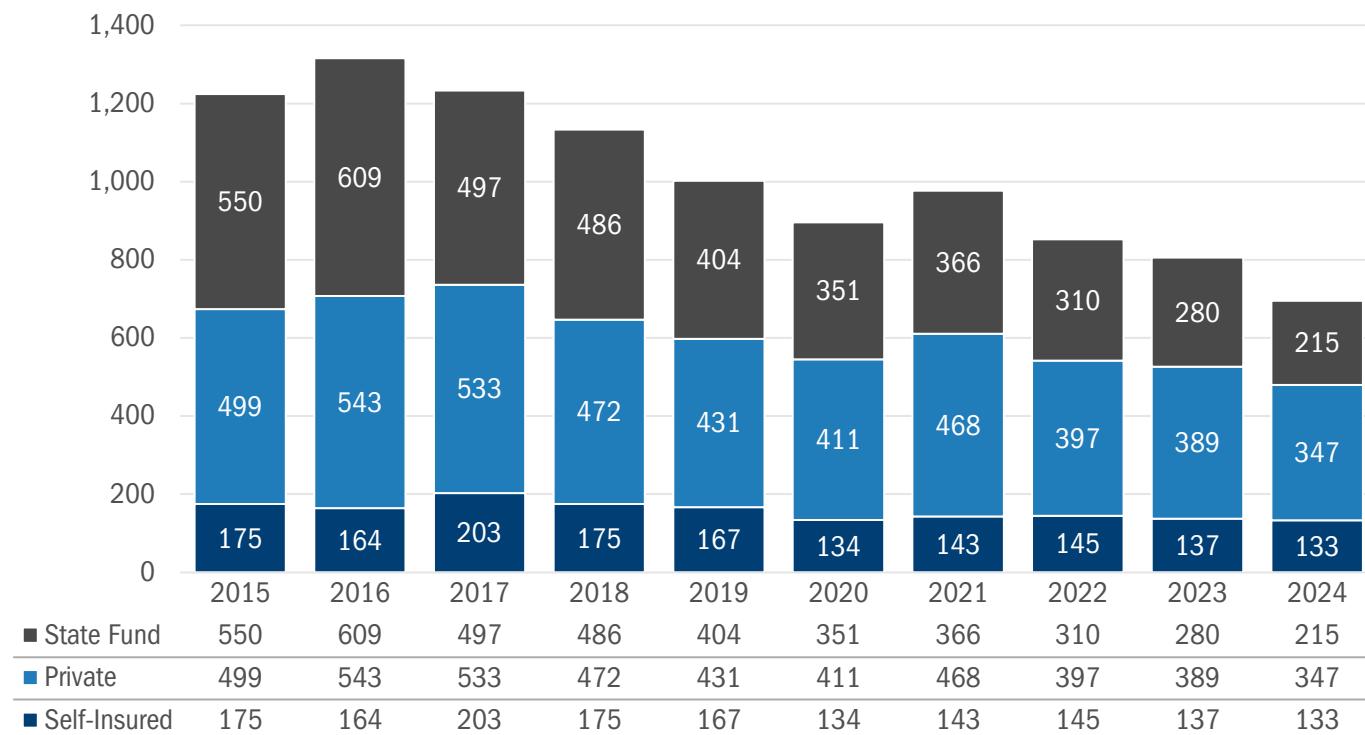
## MEDIATION

The Dispute Resolution Section administers a mandatory process for resolving disputes concerning benefits for both occupational injury and disease claims. The mediation process is confidential, non-binding, and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are usually by telephone, but can be held in person in Helena upon request. Often more than one conference is held in order to resolve

the disputes on a claim. If disputes are not resolved at mediation, the parties may proceed to the Workers' Compensation Court (WCC).

The majority (78%) of mediations are resolved within 90 days, with a median number of 40 days. Mediations most often involve disputes over medical or wage-loss benefits.

**Figure 5.1** Mediation Petitions by Plan Type and Year of Receipt



**Figure 5.2** Mediation Petitions by Year of Receipt

		2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Pending	Open	0	0	1	0	0	0	2	8	5	52
	Pending	0	0	0	0	0	1	0	0	6	40
	Recommendation Issued	0	0	0	0	9	17	30	17	14	34
Resolved	Resolved as a Result of Conference	415	452	453	432	441	359	321	323	284	155
	Resolved during Conference	210	201	139	129	133	127	126	81	70	37
	Resolved Prior to Conference	388	426	372	348	289	282	397	365	302	287
	Duplicate	0	0	0	0	0	0	1	3	4	5
	Work Comp Court	0	2	2	1		6	3	18	71	18
	Dismissed	43	33	46	41	22	24	45	17	10	12
Unresolved	Unresolved	46	49	55	50	40	25	42	26	44	61
	Work Comp Court	145	165	170	145	83	63	28	0	3	0
<b>Total</b>		<b>1,247</b>	<b>1,328</b>	<b>1,238</b>	<b>1,146</b>	<b>1,017</b>	<b>904</b>	<b>995</b>	<b>858</b>	<b>813</b>	<b>701</b>

**Figure 5.3** Mediation Petitions by Benefit Issue and Year of Receipt (One mediation could have multiple benefit issues)

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Wage Loss Benefits	471	554	530	463	365	430	471	488	376	194
Medical Benefits	533	714	651	565	471	434	498	448	399	184
Relatedness	231	207	209	181	165	134	162	105	124	80
Access to Records	98	112	113	91	66	67	89	95	57	42
Injury/Occupational Requirement	188	156	130	102	106	93	97	54	66	36
Notice/Filing Time	56	74	66	41	50	23	47	33	42	26
Course and Scope	61	77	66	63	61	62	61	52	53	19
Calculation of Wages	24	29	24	16	19	30	33	43	30	10
Employment/Insurance Coverage	36	32	22	19	16	9	21	8	6	10
Rehab Benefits	30	35	35	27	25	28	32	50	26	5
Other	94	84	95	153	152	120	202	159	122	82
<b>Total</b>	<b>1,822</b>	<b>2,074</b>	<b>1,941</b>	<b>1,721</b>	<b>1,496</b>	<b>1,430</b>	<b>1,713</b>	<b>1,535</b>	<b>1,301</b>	<b>688</b>

## WORKERS' COMPENSATION COURT (WCC)

The Workers' Compensation Court (WCC) resolves disputes between workers injured as a result of occupational injuries or diseases, and insurers or employers. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act. The court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, civil penalties for theft of workers' compensation benefits, and the two-year return to work preference specified in section **39-71-317(2), MCA**. The following information was taken from the WCC webpage: [wcc.dli.mt.gov](http://wcc.dli.mt.gov).

Figure 5.4 Petitions Received by the WCC by Case Type and Fiscal Year of Receipt

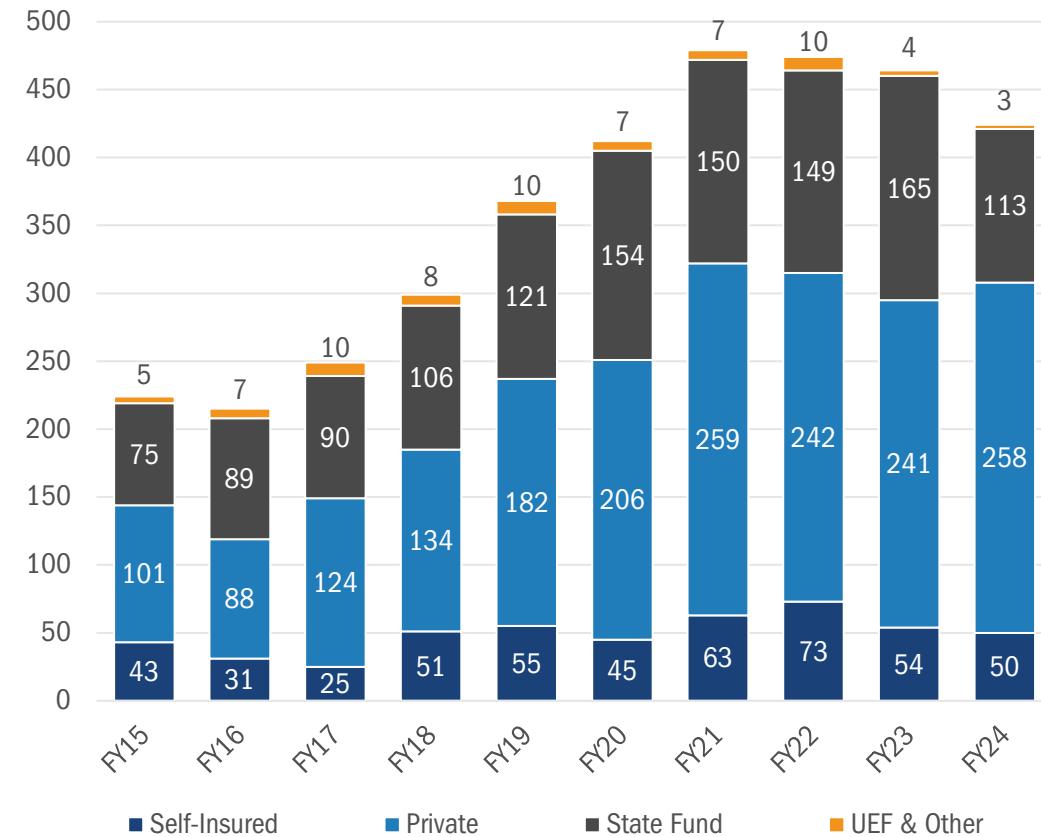


Figure 5.5 Decisions by the WCC by Fiscal Year of Receipt

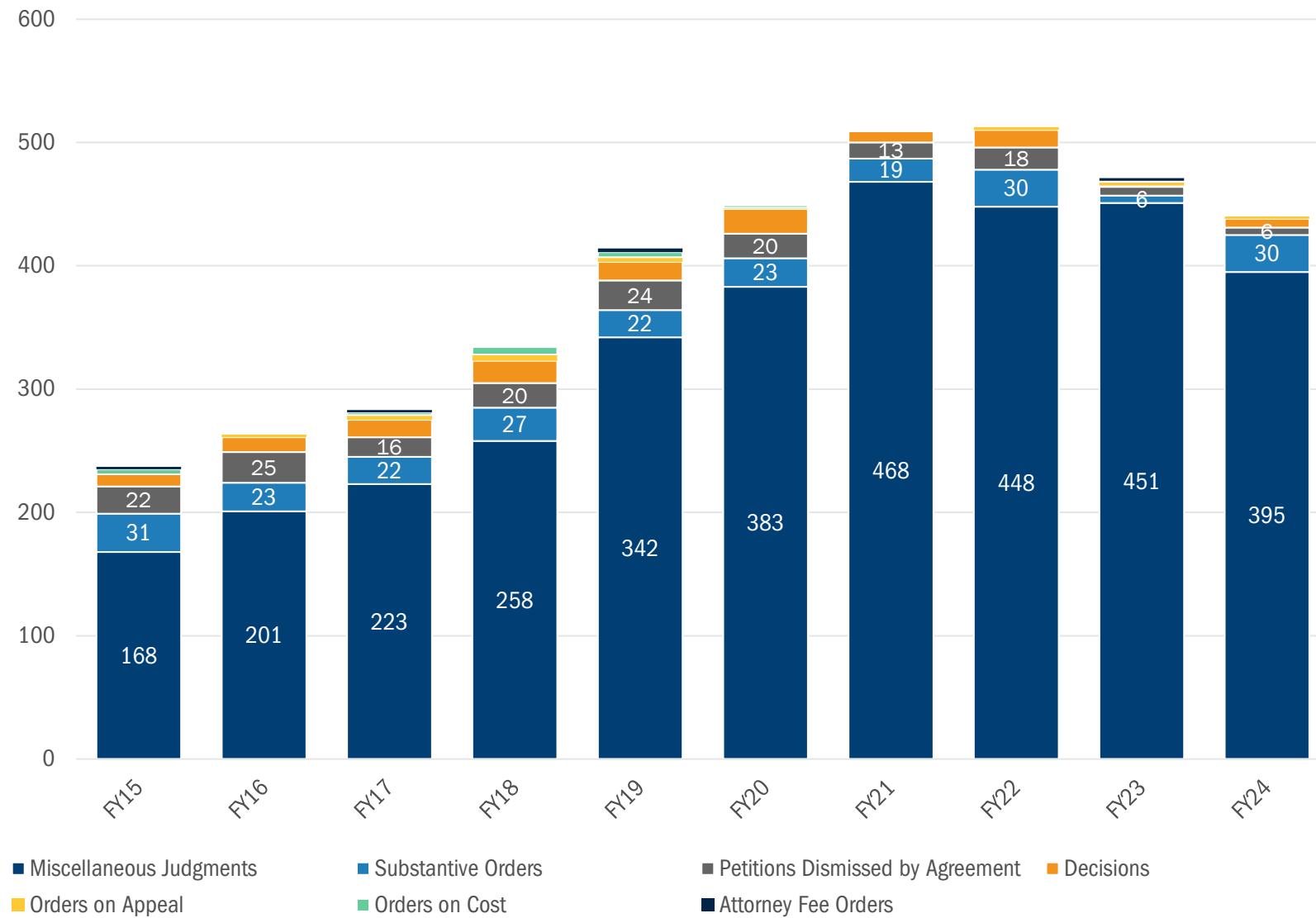
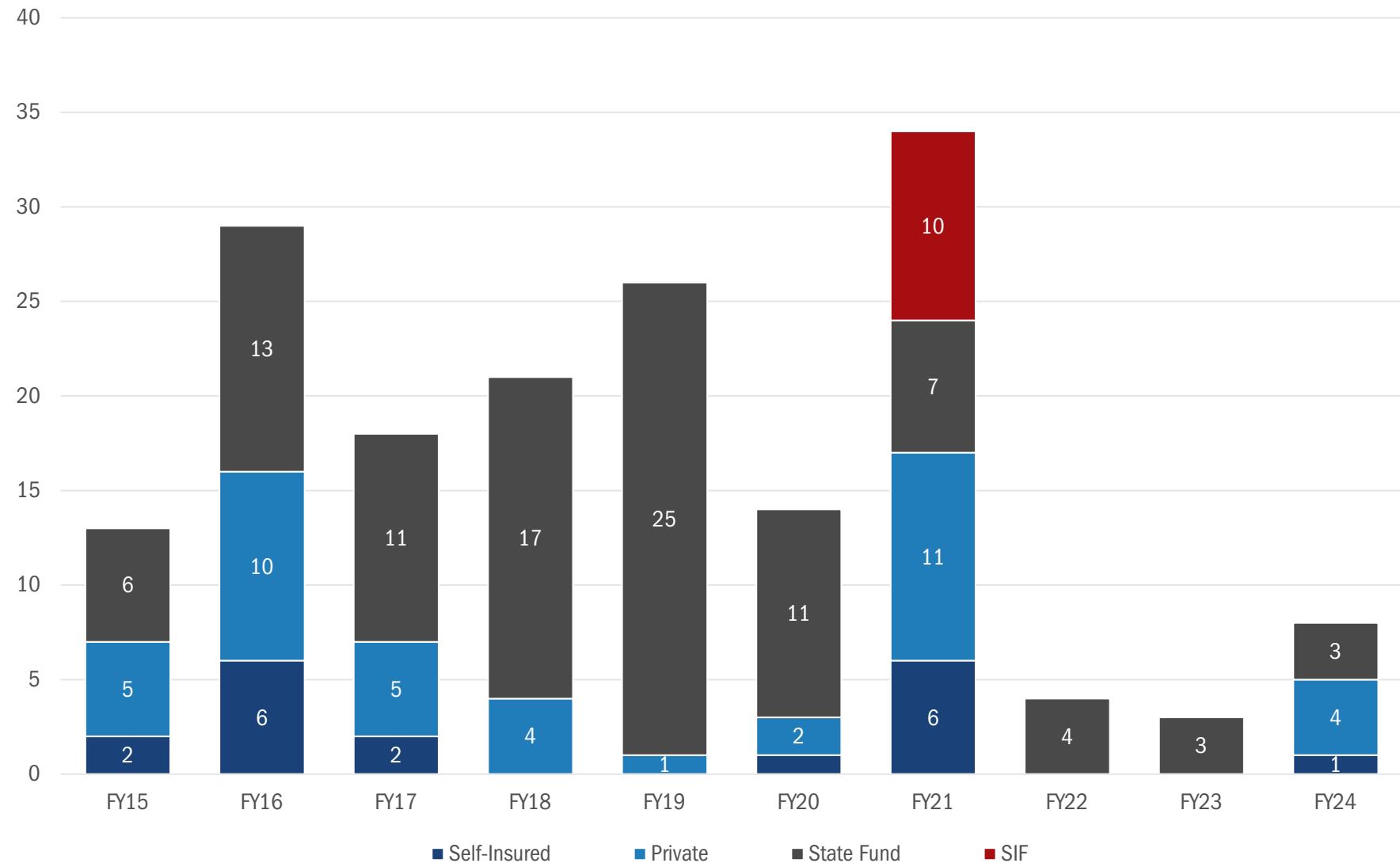


Figure 5.6 Full and Final Compromise Settlements by the WCC



# 6

## APPENDICES



Sticky Geranium

## DEFINITIONS

**Calendar Year:** The year beginning January 1 and ending December 31.

**Employment Standards Division (ESD):** The Division, as part of the Montana Department of Labor & Industry, provides a wide variety of services and regulations related to the employer-employee relationship. This includes workers' compensation coverage and Injuries, human rights, workplace safety and health, wage and hour, prevailing wage, and public sector collective bargaining. It now also includes the Business Standards Division which includes building permits and codes, professional licensing, and weights and measures.

**Fiscal Year:** The State of Montana's fiscal year begins July 1 and ends June 30 of the following year. (Example: 07/01/23 - 06/30/24 = FY24)

**First Report of Injury and Occupational Disease (FROI):** The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic injury information about the worker, accident, employer, and insurer. It is completed and submitted to ESD by employees, employers, or insurers.

**Indemnity Benefits:** Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the Injury. The term does not include expense reimbursements for items such as meals, travel, or lodging.

**Industry:** The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS codes are grouped into different industrial divisions. The following is a list of NAICS groupings:

**Accommodation and Food Services** - Lodging and/or preparing meals, snacks, and beverages.

**Administrative and Support and Waste Management and Remediation Services** - Support activities for the day-to-day operations of other organizations including office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.

**Agriculture, Forestry, Fishing, and Hunting** - Growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats.

**Arts, Entertainment, and Recreation** - Services that meet varied cultural, entertainment, and recreational interests of their patrons including (1) producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) exhibiting objects and sites of historical, cultural, or educational interest; and (3) services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

**Construction** - Construction of buildings or engineering projects (e.g., highways and utility systems) including the preparation of sites for new construction and establishments primarily engaged in subdividing and for sale of building sites.

**Educational Services** - Provide instruction and training in a wide variety of subjects including schools, colleges, universities, and training centers, either privately owned and operated for profit or not for profit, or publicly owned and operated.

**Finance and Insurance** - Engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

**Health Care and Social Assistance** - Health care and social assistance for individuals including both health care and social assistance because it is sometimes difficult to distinguish between the boundaries of these two activities.

**Information** - Produce and distribute information and cultural products, provide the means to transmit or distribute these products as well as data or communications, and process data.

**Management of Companies and Enterprises** - Hold the securities of, or other equity interests in, companies and enterprises for the purpose of owning or controlling interest or influencing management decisions, or administer, oversee, and manage establishments of the company or enterprise.

**Manufacturing** - Engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products and the assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified Construction.

**Mining, Quarrying, and Oil and Gas Extraction** - Extraction of naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas.

**Other Services (except Public Administration)** - Services not specifically provided for elsewhere in the classification system and engaged in activities such as equipment and machinery repairing, promoting or administering religious activities, grantmaking, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.

**Professional, Scientific, and Technical Services** - Professional, scientific, and technical activities for others and require a high degree of expertise and training, including legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services; translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

**Public Administration** - Federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area.

**Real Estate and Rental and Leasing** - Primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services including the major portion of this sector that rent, lease, or otherwise allow the use of their assets by others.

**Retail Trade** - Engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.

**Transportation and Warehousing** - Transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation including air, rail, water, road, and pipeline.

**Utilities** - Engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal.

**Wholesale Trade** - Selling of wholesale merchandise, generally without transformation, or rendering including goods related to agriculture, mining, manufacturing, and certain information industries, such as publishing.

**Mediation Benefit Issues:** Disputes are identified by detailed subjects or issues. Multiple issues may be identified for a single dispute. The issues are categorized as follows:

**Medical Benefits:** Includes medical treatment, domiciliary care entitlement, travel expenses, choice of treating physician, re-authorization of medical services, chiropractic treatment, co-payments, medical benefit rates, and miscellaneous medical issues.

**Wage Loss Benefits:** Includes Temporary Total Disability (TTD), Temporary Partial Disability (TPD), Permanent Partial Disability (PPD), and Permanent Total Disability (PTD) benefits.

**Relatedness:** Includes issues of aggravation, subsequent injury, heart attack, psychological conditions, and others.

**Injury/Occupational Requirement:** Disputes concerning whether a medical condition meets the legal definition of injury and occupational disease and/or disputes over whether a medical condition arises within the course and scope of employment.

**Access to Records:** Disputes or delays in obtaining Injury file records and/or related medical records.

**Notice/Filing Time:** Includes disputes over statutory notice to employer and timely filing of the Injury.

**Course & Scope:** Center on whether or not the injured worker was within the performance of his/her employment at the time of the event and if the injury or OD arose out of that employment. There are many varied scenarios within this category.

**Employment/Insurance Coverage:** Consists of disputes over employment, coverage, and responsible insurer.

**Rehabilitation Benefits:** Disputes over retraining benefits and assistance with job placement, for all dates of injury.

**Calculation of Wages:** Disputes involving non-monetary compensation, concurrent wages, and appropriate wage periods. (Wages are used for calculation of compensation rates.)

**Other:** Includes a variety of less frequently disputed issues, the most common of which are other refusal or delay, lump-sum payment disputes, death benefits, and reopening settlements.

**Medical Benefits:** Payments for hospitals, physicians, health care providers, prescriptions, and other medical care costs associated with an injury for benefits.

**Nature of Injury Descriptions:** For this report, the nature of injury codes are no longer grouped. Please find the individual codes and their descriptions at [https://www.wcio.org/sites/default/files/2022-10/Nature\\_of\\_Injury.pdf](https://www.wcio.org/sites/default/files/2022-10/Nature_of_Injury.pdf).

**Other Benefit Codes:** Codes that identify the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC definitions for the codes used in this report:

**Hospital Costs Paid to Date:** Sum of costs of both inpatient and outpatient services.

**Other Medical Paid to Date:** Sum of medical costs to other providers not included in payments to physicians or hospital costs, i.e., laboratory tests, prescriptions.

**Pharmaceutical Paid to Date:** Sum of medication payments.

**Total Payments to Physicians Paid to Date:** Sum of services paid to physicians.

**Part of Body Descriptions:** For this report, the part of body codes are no longer grouped. Please find the individual codes and their descriptions at [https://www.wcio.org/sites/default/files/2022-10/Part\\_of\\_Body.pdf](https://www.wcio.org/sites/default/files/2022-10/Part_of_Body.pdf).

**Occupational Disease (OD):** Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

**Occupational Injury:** Internal or external physical harm to the body that is established by objective medical findings, caused by a specific work accident on a single day or during a single work shift.

**Permanent Partial Disability (PPD):** Permanent impairment resulting from an injury or occupational disease, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed one-half the state's average weekly wage at the time of injury. The maximum length for PPD benefits is determined by the date of injury.

**Permanent Total Disability (PTD):** A physical condition resulting from an injury or occupational disease after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66 2/3% of the wages received

at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

**Plan Type:** The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

**Plan 1:** Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation Injuries. If an injury occurs, a self-insured employer will pay the expenses and benefits.

**Plan 2:** Insurance coverage provided by a private insurance company.

**Plan 3:** Insurance coverage provided by Montana State Fund.

**Subsequent Report of Injury (SROI):** The SROI is completed for each individual injury with indemnity benefits and is submitted to ESD by adjusters or insurers on every six-month anniversary of the date of injury until the Injury is closed or additional compensation or medical payments are not anticipated. The form includes Injury and identification information, the status of the injury, type of benefits paid and benefits payment amounts.

**Temporary Partial Disability (TPD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement, that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

**Temporary Total Disability (TTD):** A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

**Vocational Rehabilitation Benefits:** Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

**Wage Loss Benefits:** Temporary Total Disability, Temporary Partial Disability, Permanent Total Disability, and Permanent Partial Disability benefits paid to the injured worker.

## **DATA SOURCES**

Montana Department of Labor & Industry  
Workers' Compensation Claims Assistance Bureau;  
Workers' Compensation Regulations Bureau; and  
Hearings Bureau

### **Quarterly Expenditure Reports**

Totals of compensation, medical, and miscellaneous expenses reported to the DLI by carriers.

### **Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses**

Costs obtained from the State's Accounting, Budgeting, and Human Resource System (SABHRS).

### **Unemployment Insurance Tax System for Leased Employees**

### **Workers' Compensation Court**

### **Workers' Compensation Database (WCAN)**

Employers, insurers, injured workers, attorneys, medical providers, and other parties of the workers' compensation community in Montana provide data for the system. ESD maintains the database.

Photos of Montana provided by Andrew Matheison – ESD Research Analyst

	2015	2016	2017	2018	2019	2020	2021	2022	2023
Active CRs	15,999	16,055	16,713	16,709	17,181	17,175	18,016	18,337	17,096

- Household or domestic employment;
- Casual employment;
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code;

Figure 1.2 Annual Premium Market Share for Private Insurance Companies and Montana State Fund in Millions

Fiscal Year	Number of Settlements	Total Settled	Total Attorney Fees	Fee/Settlement Percentage
FY2014	877	\$36,166,687	\$6,537,740	18%
FY2015	900	\$44,443,172	\$7,855,899	18%
FY2016	1,055	\$52,514,437	\$9,327,262	18%
FY2017	940	\$40,268,919	\$7,158,340	18%
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FY2019	662	\$29,338,255	\$5,343,858	18%
FY2020	602	\$25,125,067	\$4,624,423	18%
FY2021	454	\$19,609,397	\$3,606,920	18%
FY2022	389	\$20,518,288	\$3,768,933	18%
FY2023	370	\$16,096,053	\$2,942,004	18%
<b>Total</b>	<b>7,113</b>	<b>\$319,790,988</b>	<b>\$57,609,570</b>	<b>18%</b>

