

HOUSE BILL NO. 211

Introduced: 01/13/83

Referred to committee on Judiciary: 01/13/83

Hearing: 1/24/83

Report: 01/24/83, Do Pass, As Amended

2nd Reading: 01/26/83, Do Not Pass

Bill Killed

1 House BILL NO. 211  
2 INTRODUCED BY J. Brown  
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING THE  
6 COMPENSATION BENEFITS PAID TO VICTIMS OF CRIME TO THE  
7 AVERAGE WEEKLY WAGE AS DETERMINED FOR PURPOSES OF WORKERS'  
8 COMPENSATION; AMENDING SECTION 53-9-128, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 53-9-128, MCA, is amended to read:

12 "53-9-128. Compensation benefits. (1) A claimant is  
13 entitled to weekly compensation benefits when the claimant  
14 has a total actual loss of wages due to injury as a result  
15 of criminally injurious conduct. During the time the  
16 claimant seeks such weekly benefits, the claimant, as a  
17 result of such injury, must have no reasonable prospect of  
18 being regularly employed in the normal labor market. The  
19 weekly benefit amount is 66 2/3% of the wages received at  
20 the time of the criminally injurious conduct, subject to a  
21 maximum of \$125 an amount equal to the state's average  
22 weekly wage as defined in 39-71-116(1). Weekly compensation  
23 payments shall be made at the end of each 2-week period. No  
24 weekly compensation payments may be paid for the first week  
25 after the criminally injurious conduct occurred, but if

1 total actual loss of wages continues for 1 week, weekly  
2 compensation payments shall be paid from the date the wage  
3 loss began. Weekly compensation payments shall continue  
4 until the claimant has a reasonable prospect of being  
5 regularly employed in the normal labor market.

6 (2) The claimant is entitled to be reimbursed for  
7 reasonable services by a physician or surgeon, reasonable  
8 hospital services and medicines, and such other treatment as  
9 may be approved by the division for the injuries suffered  
10 due to criminally injurious conduct.

11 (3) (a) The dependents of a victim who is killed as a  
12 result of criminally injurious conduct are entitled to  
13 receive, in a gross single amount payable to all dependents,  
14 weekly benefits amounting to 66 2/3% of the wages received  
15 at the time of the criminally injurious conduct causing the  
16 death, subject to a maximum of \$125 an amount equal to the  
17 state's average weekly wage as defined in 39-71-116(1) per  
18 week. Weekly compensation payments shall be made at the end  
19 of each 2-week period.

20 (b) Benefits under subsection (3)(a) of this section  
21 shall be paid to the spouse for the benefit of the spouse  
22 and other dependents unless the division determines that  
23 other payment arrangements should be made. If a spouse dies  
24 or remarries, benefits under subsection (3)(a) shall cease  
25 to be paid to the spouse but shall continue to be paid to

1 the other dependents so long as their dependent status  
2 continues.

3 (4) Reasonable funeral and burial expenses of the  
4 victim, not exceeding ~~\$1,100 an amount to be set by rule of~~  
5 ~~the division~~, shall be paid if all other collateral sources  
6 have properly paid such expenses but have not covered all  
7 such expenses.

8 (5) Compensation payable to a victim and all of the  
9 victim's dependents in cases of the victim's death, because  
10 of injuries suffered due to an act of criminally injurious  
11 conduct may not exceed ~~\$25,000 the product of 200 times the~~  
12 ~~state's average weekly wage as defined in 39-71-116(1)~~ in  
13 the aggregate.

14 (6) Compensation benefits are not payable for pain and  
15 suffering, inconvenience, physical impairment, or nonbodily  
16 damage.

17 (7) (a) A person who has suffered injury as a result  
18 of criminally injurious conduct and as a result of such  
19 injury has no reasonable prospect of being regularly  
20 employed in the normal labor market, who was employable but  
21 was not employed at the time of such injury, may in the  
22 discretion of the division be awarded weekly compensation  
23 benefits in an amount determined by the division not to  
24 exceed ~~\$100 one-half the state's average weekly wage as~~  
25 ~~defined in 39-71-116(1)~~ per week. Weekly compensation

1 payments shall continue until the claimant has a reasonable  
2 prospect of being regularly employed in the normal labor  
3 market or for a shorter period as determined by the  
4 division. The claimant shall be awarded benefits as provided  
5 in subsection (2) of this section.

6 (b) The dependents of a victim who is killed as a  
7 result of criminally injurious conduct and who was  
8 employable but not employed at the time of death may in the  
9 discretion of the division be awarded, in a gross single  
10 amount payable to all dependents, a sum not to exceed ~~\$100~~  
11 ~~one-half the state's average weekly wage as defined in~~  
12 ~~39-71-116(1)~~ per week which shall be payable in the manner  
13 and for the period provided by subsection (3)(b) of this  
14 section or for such shorter period as determined by the  
15 division. The claimant shall be awarded benefits as provided  
16 in subsection (4) of this section.

17 (c) Compensation payable to a victim or a victim's  
18 dependents under this subsection may not exceed ~~\$20,000 the~~  
19 ~~product of 200 times one-half the state's average weekly~~  
20 ~~wage as defined in 39-71-116(1)~~, and the limitations of  
21 subsection (6) apply to compensation under this subsection  
22 (7).

23 (8) Amounts payable as weekly compensation may not be  
24 commuted to a lump sum and may not be paid less frequently  
25 than every 2 weeks."

## STATE OF MONTANA

REQUEST NO. 115-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 15, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 211 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

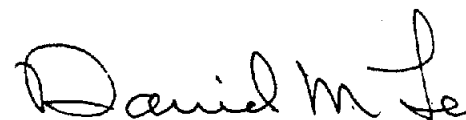
House Bill 211 relates the compensation benefits paid to victims of crime to the average weekly wage as determined for purposes of worker's compensation and amends Section 53-9-128, MCA.

ASSUMPTIONS:

- 1) Benefits paid will only be distributed in accordance with funds available as determined from time to time by the Division of Worker's Compensation, according to Section 53-9-108..."If the division determines at any time that the funds for the fiscal year will not be an amount that will fully pay all claims, the division may make appropriate proportionate reductions in benefits to all claimants."
- 2) The state's average weekly wage used for compensation purposes will be \$282 in FY 1984 and \$303 in 1985.
- 3) Revenue from Highway Patrol fines will remain at the current level.
- 4) Claims which reach the maximum benefit level will be no more than one (1) per year.
- 5) Claim costs will be reserved from revenues collected in the year of the claim.
- 6) Accepted claims will be approximately 160 per year.
- 7) Administrative costs will increase 8% and 7% during the biennium.

FISCAL IMPACT:

	<u>FY 1984</u>	<u>FY 1985</u>
<u>Revenue:</u>		
Highway Patrol Fines	\$ 420,000	\$ 420,000
Recoveries	1,000	1,000
Investment Earnings	40,000	35,000
Total Revenue	<u>\$ 461,000</u>	<u>\$ 456,000</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-20-83

FISCAL IMPACT (CONTINUED):

	<u>FY 1984</u>	<u>FY 1985</u>
<u>Costs:</u>		
<u>Benefits:</u>		
Legal	\$ 1,200	\$ 1,200
Medical	312,000	325,000
Wage Loss/Dependents/Survivors	91,800	98,300
Administrative - Direct	40,727	43,578
Administrative - Indirect	18,192	19,464
Reserve Adjustments	49,058	51,774
Benefit Reduction Sec. 53-9-108	(51,977)	(83,316)
Total Costs	<u>\$ 461,000</u>	<u>\$ 456,000</u>

COMMENT:

The division anticipates that under current law \$461,000 would be available for FY 84. However, only \$456,599 of this amount would be used. If the \$125 weekly benefit limitation is removed, the division can pay the \$4,401 difference to beneficiaries. This is the immediate fiscal impact of the bill.

In FY 85, \$456,000 is expected to be collected and used for victims of crime. The long range effect of this bill is that benefits paid to victims of crime will increase to the state average weekly wage depending upon revenues collected.

FISCAL NOTE 5:P/2

Approved by Committee  
on Judiciary

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-End-

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