

(Return in triplicate)

FISCAL NOTE

Bill/Resolution No.: SB 2165 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 12-31-90

Please estimate the fiscal impact of the above measure for:

State general or special funds  Counties  Cities

In the following space note the fiscal effect in dollars of this measure:

Narrative:

It is not the Bureau's intention to generate more premium should the cap be eliminated or changed, the Bureau is required to establish premium rates to cover claims within each classification. The total dollar amount of premium within each classification would not change, only the way in which it is billed. The premium billed on gross payroll or any cap significantly higher than \$3,600 would be more equitable when compared to the risk of those injured.

(See attached)

State Fiscal Effect:

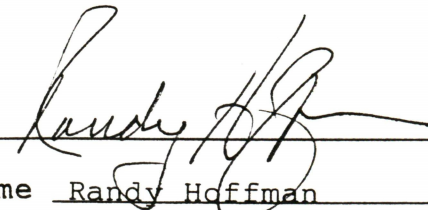
| <u>1991-92</u>      |                      | <u>1992-93</u>      |                      | <u>Biennium Total</u> |                      |
|---------------------|----------------------|---------------------|----------------------|-----------------------|----------------------|
| <u>General Fund</u> | <u>Special Funds</u> | <u>General Fund</u> | <u>Special Funds</u> | <u>General Fund</u>   | <u>Special Funds</u> |
|                     |                      |                     |                      |                       |                      |

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County and City Fiscal Effect:

| <u>1991-92</u>  |               | <u>1992-93</u>  |               | <u>Biennium Total</u> |               |
|-----------------|---------------|-----------------|---------------|-----------------------|---------------|
| <u>Counties</u> | <u>Cities</u> | <u>Counties</u> | <u>Cities</u> | <u>Counties</u>       | <u>Cities</u> |
|                 |               |                 |               |                       |               |

If additional space is needed, attach a supplemental sheet.

Signed   
 Typed Name Randy Hoffman  
 Department Workers Compensation  
 Phone Number 224-3984

Date Prepared: 1-7-91

01/03/91

ND WORKERS COMPENSATION BUREAU  
INFORMATION ON 65-04-04, \$3,600 PAYROLL CAP.

The ND Workers Compensation Bureau provides a no-fault insurance plan to compensate ND employees involved in industrial accidents and illnesses. This protection is provided to the injured in the form of medical, disability, death and impairment benefits, and may include rehabilitation services.

PREMIUM CALCULATION

The Bureau is totally funded through employer paid premiums. The executive director of the Bureau establishes classifications for employment and premium rates for each classification. Rates are based on the historical and prospective costs within each classification. The rate is stated as a percentage of payroll subject to the payroll cap, currently \$3,600 per employee, per year.

EXAMPLE: Rate Class 3124 - MFG LIGHT METAL GOODS

| RATE | EMPLOYEES | GROSS PAYROLL | REPORTABLE PAYROLL | MAX ANNUAL BASE PREMIUM     |
|------|-----------|---------------|--------------------|-----------------------------|
| 5.44 | 1         | \$18,000      | \$3,600            | \$195.84<br>(3,600 X 5.44%) |

The cap has been the subject of much discussion during recent years. Much of that discussion has been to explain the cap itself. The \$3,600 cap and its consequences are complex. Its impact and the impact of a change from that level are commonly misunderstood.

HISTORY OF THE \$3,600 CAP

During the 1953 legislative session the following language relating to the cap was added to section 65-04-04 of the Workers Compensation Statute...

"...provided, however, that the computation of such premiums shall not be based upon any premium wages in excess of the basic hourly rate of pay or any annual remuneration, in whatever form, in excess of the sum of thirty-six hundred dollars paid to any employees by any employer."

Full legislative history is unavailable about the intent of the change. It is presumed, however, that establishing the cap at that level was tied to the states average weekly wage in 1953. (\$65.00 or \$3,380.00 per year)

Before the change in 1953, premium was calculated on all earnings, the practice used today by most of the workers compensation industry. One state fund bases premium on number of hours worked, some have a cap for executive (owner/officer) salaries, while again, most base it on gross payroll.

#### INEQUITY OF THE \$3,600 CAP

In the judgement of the Bureau and its actuary, the \$3,600 cap is inequitable and an unfair burden falls on those employers with...

- part time employees
- temporary employees
- turnover of employees.

The maximum premium billable on any one employee will be reached when the employee earns \$3,600.00. The Bureau is billing many accounts, with employees having significantly different exposure to the risk of injury, at the same rate. For example, the base premium rate for an employee of a grocery store is currently \$1.48 per \$100 of payroll. This rate is applied to the following scenarios...

|   | Cost      |
|---|-----------|
| CASE A - Has a full time employee.<br>Average salary \$26,000/year.                                 | \$ 53.28  |
| CASE B - Has a part time employee.<br>Salary \$8,000/year.  | \$ 53.28  |
| CASE C - Hires an employee for<br>summer only.<br>Salary \$3,600/year.                              | \$ 53.28  |
| CASE D - Hires an employee for<br>summer only.<br>Salary \$1,800/year.                              | \$ 26.64  |
| CASE E - Has one position, changes<br>employees mid-year.<br>Salary \$12,000/year (both positions). | \$ 106.56 |

- \* In cases A, B and C, there is significantly different exposure to risk, yet all are paying the same premium.
- \* In case D, the exposure is significantly less than A, yet premium is only 50% less than A.
- \* In case E exposure is not significantly more than A yet the premium is 200 % of A.



While some additional exposure may exist where turnover is high or where temporary employees are utilized extensively, it is not as significant as the premium differences that exist. The Bureau's merit rate system works to allocate premium load to those employers who have experienced a higher level of accidents.

This situation occurs across all rate classes and in some cases is compounded where more than one of the above situations exist.

While the medical benefits available to an injured worker in any of the above examples would be the same, it represents only about 50% of the benefit cost to the Bureau. The disability benefits would be based on wages and would be significantly less in case E when compared to A.

#### GROSS PAYROLL EXAMPLE

Assuming the examples above make up the entire population of the class, the premium could be recalculated based on gross payroll and a new rate of \$0.57 per \$100.00 of payroll. The following example does not reflect any proposed rate for the class, it is simply illustrates the impact of a change.

|  | Cost      |           |
|--|-----------|-----------|
|  | (Gross)   | (\$3,600) |
| CASE A - Has a full time employee.<br>Salary \$26,000/year.                              | \$ 148.20 | \$ 53.28  |
| CASE B - Has a part time employee.<br>Salary \$8,000/year.                               | \$ 45.60  | \$ 53.28  |
| CASE C - Hires an employee for<br>summer only.<br>Salary \$3,600/year.                   | \$ 20.52  | \$ 53.28  |
| CASE D - Hires an employee for<br>summer only.<br>Salary \$1,800/year.                   | \$ 10.26  | \$ 26.64  |
| CASE E - Has one position, changes<br>employees mid-year.<br>Salary \$12,000/year total. | \$ 68.40  | \$ 106.56 |
| TOTAL  | \$ 292.98 | \$ 293.04 |

The total premium generated for the overall class remains approximately the same, however the distribution matches the exposure much more closely.



Any actual rate change would be dependant on the average annual salary of employees within the class. For example, the rate change in a class where the average annual salary is high would be more significant than a class where the average annual salary is low.

#### INTENT

It is not the Bureau's intention to generate more premium should the cap be eliminated or changed, the Bureau is required to establish premium rates to cover claims within each classification. The total dollar amount of premium within each classification would not change, only the way in which it is billed. The premium billed on gross payroll or any cap significantly higher than \$3,600 would be more equitable when compared to the risk of those insured.

#### SUMMARY

Employers with high salaried, full time employees are being subsidized to various degrees by those with lower salaries, part-time employees, or turnover. It has been stated that ND bases premium on a "head count" and not risk as a result of the low payroll cap.

ND rates have increased significantly in recent years, the Bureau must make every effort to bill premium in a manner that is fair. Equity can only be attained if premium is more closely tied to exposure. This is an insurance principle applied universally, ND's \$3,600 cap, over time has become an oddity of the industry without merit.

#### WCB POSITION

An increase or elimination of the cap would provide a more equitable method of premium allocation to the Bureau. Any cap should be tied to an indicator that would increase on an annual basis to match increases in wages, etc. Any cap reduces the full impact of a change to gross payroll but an increased cap provides for more equitable distribution of premium compared to the \$3,600 cap.

Any proposal for change could include a delayed implementation date to 1) Allow the Bureau to collect actual payroll information on the new cap level.  
2) Provide employers with significant notice of the new premium rate and its impact on their individual account, if any.

SB 2165

GROSS WAGE ENTITLING AN EMPLOYEE TO THE MAXIMUM DISABILITY  
COMPENSATION:

Maximum disability compensation = State average wage.

State Average Weekly Wage (7/1/90) = \$ 321.00

Compensation rate = 66 2/3% workers average weekly wage.

|                       |              |
|-----------------------|--------------|
| Annual Earnings of    | \$ 24,400.00 |
| equals weekly wage of | 469.23       |
| produces a disability | 321.00       |
| compensation rate of  |              |
| (\$469.23 X 66-2/3%)  |              |

Based on the current state average weekly wage, the payroll  
cap would be \$24,400 per employee per year.