

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/27/2009

Bill/Resolution No.: SB 2386

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation redefines when pre-existing injuries are compensable; redefines the standards for permanent total disability reverting back to a more subjective standard; redefines temporary total disability and eliminates the 104 cumulative week cap for temporary total disability benefits.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE  
2009 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2386

BILL DESCRIPTION: Redefine TTD, PTD, and Compensability of Pre-Existing Conditions

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation redefines when pre-existing injuries are compensable; redefines the standards for permanent total disability reverting back to a more subjective standard; redefines temporary total disability and eliminates the 104 cumulative week cap for temporary total disability benefits.

SB 2386 has the potential to increase materially both reserve requirements and future rate levels.

Reserve Level Impact: North Dakota changed the criteria used to classify claims as PTD and TTD effective January 1, 2006. At the time the change in definition was introduced, we assumed that the number of PTD's would decrease by roughly 20% or, roughly 10 claims per year. The reserve increase associated with PTD claims incurred during the three and one-half year period ending June 30, 2009 could range between \$5 million and \$7 million over the levels that would otherwise be required. We derived the range under the assumption that 35 additional claims would emerge during the period January 1, 2006 through June 30, 2009.

The change in criteria used to classify TTD's will likely add to the cost of the proposed legislation. However, we do

not have sufficient data to quantify the increase. In addition, the elimination of the 104 week cap on TTD benefits will likely increase costs further.

Premium Rate Level Impact: We believe that SB 2386 will have a material impact on rate levels in the state. Using assumptions consistent with the underlying estimate of the associated increase in reserve levels, the change to the criteria used to categorize a claim as PTD, could increase rate levels by more than 1%, or more than \$1.5 million per year.

Though we cannot quantify the likely impact, the proposed changes to TTD's will add to the increase.

The proposed change to the terms under which a pre-existing condition is compensable will add to the cost of the bill. WSI does not have an appropriate base of historical experience to permit an actuarial evaluation of anticipated costs associated with this change. Furthermore, the extremely short timeframe available for our review exacerbates the difficulties associated with deriving an actuarially appropriate estimate of expected costs.

We evaluated potential costs associated with SB 2386 under the assumption that no other changes would be made concurrently to the State's benefit structure. To the extent that this piece of legislation passes in conjunction with other changes under consideration – the costs could compound.

DATE: February 2, 2009

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

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