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## FISCAL IMPACT REPORT

SPONSOR Leavell DATE TYPED 2/28/2005 HB \_\_\_\_\_

SHORT TITLE Workers' Comp Eligibility Requirements SB 114/aSJC/aHLHRC

ANALYST Dunbar

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Workers' Compensation Administration (WCA)

New Mexico Corrections Department (NMCD)

### SUMMARY

#### Synopsis of HLHRC Amendment

House Labor and Human Resources Committee amendment to SB114 clarifies the bill by the addition of language noting that prior to the date of maximum medical improvement an injured workers health provider releases the worker to return to work, the worker is not entitled to temporary disability benefits if:

- The employer offers work at the worker's pre-injury wage; or
- The worker accepts employment with another employer at the worker's pre-injury wage.

The HLHRC amendment also strikes the SJC amendment.

#### Synopsis of SJC Amendment

Senate Judiciary Committee Amendment to SB 114 makes a technical language modification that helps clarify the purpose of the bill.

Synopsis of Bill

The bill reverses an appellate court decision that held that a worker could obtain both his wages and temporary total disability benefits if he or she went to work for an employer other than the employer at the time of injury prior to maximum medical improvement.

Significant Issues

The Workers' Compensation Advisory Council endorsed the bill.

**PERFORMANCE IMPLICATIONS**

The bill is not anticipated to have significant impact on WCA performance.

**ADMINISTRATIVE IMPLICATIONS**

The bill will result in a small increase in the investigative workload of the WCA Enforcement Bureau in cases of fraudulent receipt of workers' compensation benefits and wages. The increase can be absorbed with current resources.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The bill overrules *Grubelnik v. Four-Four, Inc.* 130 NM 633 (Ct App, 2001)

**OTHER SUBSTANTIVE ISSUES**

This bill is designed to prevent "double dipping" – taking workers' compensation benefits for temporary total disability and wages at the same time – that has been permitted as a result of a court decision that was based on inexact drafting in the 1991 Workers' Compensation Act. The court result made NM the only state that allows such double dipping. The bill will eliminate a disincentive to return to work with the employer at the time of injury that is caused by the economics of double dipping.

BD/lg:yr