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## FISCAL IMPACT REPORT

SPONSOR Woods/Trujillo Ca ORIGINAL DATE 2/3/15  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Temporary Disability Benefit Changes SB 233  
ANALYST Klundt

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI			N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Workers' Compensation Administration (WCA)

Workforce Solutions Department (WSD)

Attorney General's Office (AGO)

### SUMMARY

Senate Bill 233 amends the Workers' Compensation Act and the New Mexico Occupational Disease Disablement Law to change temporary disability benefits and to incorporate a lifetime maximum benefit.

### FISCAL IMPLICATIONS

The Workers' Compensation Administration (WCA) did not identify any impact to the agency; however, it stated the bill will restore predictability to indemnity payments in the worker compensation system.

### SIGNIFICANT ISSUES

This bill attempts to clarify the applicability of disability limits contained in 52-1-25, 52-1-25.1 and 52-1-47 NMSA 1978, which were altered by the recent Supreme Court ruling in *Fowler v. Vista Care*, 2014-NMSC-019. The bill also amends limits placed on disabilities resulting in mental impairment. In *Breen v. Carlsbad Municipal Schools*, 138 N.M. 331 (2005), the Supreme Court found the current statutory language limiting benefits for disabilities from mental impairments violates equal protection.

The 1990 Workers' Compensation Act struck a balance between the interests of injured workers and the interests of employers. Workers agreed to a system of limited benefits in exchange for employers' agreement to enter into a system that compensated workers for work place injuries, regardless of fault. The workers' compensation system requires predictability so that claims within the system can be paid quickly and consistently. The system is intentionally designed to be formulaic (i.e., if this, then that) so that parties to a claim are clear on what is expected of them.

In *Fowler*, the NM Supreme Court ruled that the 700 week lifetime maximum period of compensation benefits (i.e., indemnity benefits) does not apply to "temporary total disability benefits" and that temporary disability benefits may be available for the remainder of a worker's life. The Court's decision interpreted the limitations on benefit periods in a way that was starkly different from the understanding and practice of the WCA and parties within the system. The WCA believes the proposed bill is necessary to restore past practice and understanding of benefit limitations so claims can be paid predictably and consistently by employers and insurers. WCA also indicates the agency's belief that this bill is also necessary to correct provisions limiting benefits for mental impairments/injuries, which were ruled unconstitutional in *Breen*. The bill clarifies that disabilities resulting from mental impairments should be treated similarly to disabilities resulting from physical injuries.

#### **PERFORMANCE IMPLICATIONS**

These amendments will clarify the applicability of these statutes to assist workers' compensation judges in effectively interpreting the involved statutes so that claims can be paid consistently and quickly, and at a reasonable cost to employers.

#### **OTHER SUBSTANTIVE ISSUES**

This bill has been unanimously approved by the Advisory Council on Workers' Compensation and Occupational Disease.

KK/bb