Multiple Agency Fiscal Note Summary

Bill Number: 5128 E S SB	**Title:** Injured worker compensation

Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2013-15			2015-17			2017-19		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Board of Industrial Insurance Appeals	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	12,000	.0	0	250,000	.0	0	0
Total	**0.0**	**$0**	**$12,000**	**0.0**	**$0**	**$250,000**	**0.0**	**$0**	**$0**

Estimated Capital Budget Impact

NONE

Prepared by: Tristan Wise, OFM	**Phone:** (360) 902-0538	**Date Published:** Final 4/19/2013

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 35630

Individual State Agency Fiscal Note

Bill Number: 5128 E S SB	**Title:** Injured worker compensation	**Agency:** 190-Board of Indust Insurance Appeals

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Dianne Criswell	Phone: (360) 786-7433	Date: 03/20/2013
Agency Preparation:	William Chase	Phone: 360-753-2790	Date: 04/19/2013
Agency Approval:	Bob Liston	Phone: 360-753-6823	Date: 04/19/2013
OFM Review:	Tristan Wise	Phone: (360) 902-0538	Date: 04/19/2013

Request # 9-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Narrative

Section 1 of this proposed legislation replaces the current structured settlement statute starting September 1, 2013. This proposal would allow injured workers of all ages to enter into a voluntary settlement agreement to settle all aspects of a claim except for medical benefits. Settlement agreements must be submitted to, and approved by, the Board of Industrial Insurance Appeals (BIIA) if the BIIA finds that the parties have entered into the agreement knowingly and willingly. If the injured worker is unrepresented, a settlement officer (industrial appeals judge) at the BIIA must review the settlement agreement, explain to the worker the benefits generally available, ensure the worker has an adequate understanding of the proposal and its consequences, and can approve the settlement only if it is in the best interest of the worker.

The legislation provides factors for the settlement officer to consider when making the best interest determination. Settlement agreements cannot be submitted to the BIIA within 12 weeks of injury or disease manifestation, and benefits must be paid during negotiation until the settlement becomes final. A settlement agreement can be re-opened for medical treatment only, upon a showing of medical worsening.

<u>This bill differs from SSB 5128 in that it does not allow workers to resolve a claim against their medical benefits.</u>

Expenditures:

The BIIA analysis on settlement agreements is based on our actual experience with structured settlements and workload estimates provided by the Department of Labor and Industries.

Section 1

This legislation eliminates the age restriction for applying for structured settlement agreements and will increase the number of structured settlements at the Board of Industrial Insurance Appeals (BIIA). The BIIA is making the following general assumptions regarding workload:

1. We assume expedited transcripts in all settlement agreements with non-represented
2. We assume 35% of settlement agreements will be non-represented
3. We assume that self-insured employers will submit settlement agreements at a rate equal to 50% of state fund employers
4. We assume 1 Industrial Appeals Judge (IAJ) for every 200 non-represented settlement agreements
5. We assume 1 IAJ for every 800 represented settlement agreements (this is a change from our previous assumptions in ESHB 2123 as more settlements can be processed per IAJ).
6. We assume 1 New Appeals Specialist/Legal Secretary for every 1000 settlement agreements
7. We assume 1 Legal Secretary for every 800 settlement agreements

Because of various difficulties in determining the workload impact of expanding settlement eligibility to all injured workers, the Department of Labor and Industries (DLI) has provided workload estimates for three scenarios. We are providing assumptions that apply to the first two scenarios below and also provide assumptions specifically within each scenario. The third scenario is highly unlikely per the DLI fiscal note and is not addressed.

- For both scenarios it is assumed (per DLI) that settlements will only occur on Total Permanent Disability (TPD), Permanent Partial Disability (PPD) and Time-Loss (TL) claims.
- For both scenarios it is assumed (per DLI) that TPD, PPD and time-loss claims will be voluntarily settled at an average age of 5, 2.5 and 1 year, respectively.
- Each scenario uses the same base of 392 TPD, 3,069 PPD and 2,459 time-loss claims per year for workers under age 55.

SCENARIO 1:

- TPD claims will settle at a 15% rate. Since the average age of TPD settlement is assumed at 5 years, we are assuming annual settlement of 10% of the total TPD claims in every year for a 10 year period. (15% rate x 392TPD claims per year = 59 TPD claim settlements at 10% annually for 10 years or approximately 6 in year 1, 12 in year 2, etc). The number of annual TPD claim settlements will level at 59 per year in year 10 and beyond. (SEE CHART BELOW)
- PPD claims will settle at a 15% rate. Since the average age of PPD settlement is assumed at 2.5 years, we are assuming annual settlement of 20% of the total PPD claims in every year for a 5 year period. (15% rate x 3,069PPD claims per year = 460PPD claim settlements at 20% annually for 5 years or approximately 92 in year 1, 184 in year 2, etc). The number of annual PPD claim settlements will level at 460 per year in year 5 and beyond. (SEE CHART BELOW)
- Time-loss claims will settle at a 10% rate. Since the average age of time-loss settlement is assumed at 1 year, we are assuming annual settlement of 50% of the time-loss claims. (10% rate x 2,459 time-loss claims per year =246 time-loss claims per year at 50% annually for 2 years or approximately 123 time-loss claim settlements in year 1 and 246 in year 2 and beyond. (SEE CHART BELOW)

Claim Resolution Structured Settlement---Workload Estimates State Fund Workers Under Age 55: DLI Scenario 1						
Estimated BIIA State Fund Workload	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**
From New Accident Year Claims						
TPD	6	12	18	24	30	35
PPD	92	184	276	368	460	460
Time Loss	123	246	246	246	246	246
Total Estimated Annual State Fund Workload	**221**	**442**	**540**	**638**	**736**	**741**

Scenario 1 workload assumptions existing open claims for workers under age 55. This legislation will also create workload from workers with existing open claims who will be eligible to opt for settlements.

- The estimated number of existing open claims that will voluntarily settle is 295 TPD, 1,150 PPD and 246 time-loss claims.
- The average age of TPD settlement for existing open claims is assumed at 5 years. We are assuming annual settlement of 10% of the total TPD claims in every year for a 10 year period. (295TPD existing open claims settling over 10 years or approximately 30 per year). The existing open claim settlements for TPD claims will cease after 10 years. (SEE CHART BELOW)
- The average age of PPD settlement for existing open claims is assumed at 2.5 years. We are assuming annual settlement of 20% of the total PPD claims in every year for a 5 year period. (1,150PPD existing open claims settling over 5 years or approximately 230 per year). The existing open claim settlements for PPD claims will cease after 5 years. (SEE CHART BELOW)
- The average age of time-loss settlement for existing open claims is assumed at 1 year. We are assuming annual settlement of 50% of the time-loss claims. (246 existing open time-loss claims settling over 2 years or approximately 123 per year). The existing open claim settlements for time-loss will cease after 2 years. (SEE CHART BELOW)

Claim Resolution Structured Settlement---Workload Estimates ***Existing Open Claims*** State Fund Workers Under Age 55: DLI Scenario 1						
Estimated BIIA Workload	FY14	FY15	FY16	FY17	FY18	FY19
From Existing Open Claims						
*TPD	30	30	30	30	30	30
**PPD	230	230	230	230	230	0
***Long Term Time Loss	123	123	0	0	0	0
Total Estimated Workload	383	383	260	260	260	30

In addition to creating new workload, workers who are represented by an attorney will not have to go to conference, and the BIIA will approve the agreement unless the parties have not entered into it knowingly and willingly. This means less time spent on the represented settlements, including the workload identified in ESHB 2123 in 2011(identified in general assumption 5). We will not need additional Industrial Appeal Judges for this workload.

Based on the stated assumptions and workload estimates above, we estimate the BIIA will receive approximately 906 (604 State Fund; 302 Self Insured) additional structured settlements in FY14 and 1,237 (825 State Fund; 412 Self Insured) additional structured settlements in FY15.

- For FY14 we will need 0.9 New Appeals Specialist and 1.1 Legal Secretary plus funding for expedited transcripts for this workload. The estimated cost is approximately $274,000.
- For FY15 we will need 1.2 New Appeals Specialist and 1.5 LS1, plus funding for expedited transcripts. The estimated cost is approximately $361,000.

	Workload factors		FTE's					
Scenario 1- Staffing	FTE	# Settlements	FY14	FY15	FY16	FY17	FY18	FY19
1 Appeals Specialist/Legal Secretary	1	1,000	0.9	1.2	1.2	1.3	1.5	1.2
1 Legal Secretary	1	800	1.1	1.5	1.5	1.7	1.9	1.4
Note: assumes 35% of claims are non-represented and 65% are represented.								

SCENARIO 2

- TPD claims will settle at a 30% rate. Since the average age of TPD settlement is assumed at 5 years, we are assuming annual settlement of 10% of the total TPD claims in every year for a 10 year period. (30% rate x 392TPD claims per year = 118 TPD claim settlements at 10% annually over 10 years or approximately 12 in year 1, 24 in year 2, etc). The number of annual TPD claim settlements will level at 118 per year in year 10 and beyond. (SEE CHART BELOW)
- PPD claims will settle at a 30% rate. Since the average age of PPD settlement is assumed at 2.5 years, we are assuming annual settlement of 20% of the total PPD claims in every year for a 5 year period. (30% rate x 3,069PPD claims per year = 921PPD claim settlements at 20% over 5 years or approximately 184 in year 1, 368 in year 2, etc). The number of annual PPD claim settlements will level at 921 per year in year 5 and beyond. (SEE CHART BELOW)
- Time-loss claims will settle at a 10% rate. Since the average age of time-loss settlement is assumed at 1 year, we are assuming annual settlement of 50% of the time-loss claims. (10% rate x 2,459 time-loss claims per year = 246 time-loss settlements at 50% over 2 years or approximately 123 in year 1 and 246 in year 2 and beyond. (SEE CHART BELOW)

Claim Resolution Structured Settlement---Workload Estimates
State Fund Workers Under Age 55: DLI Scenario 2

Estimated BIIA State Fund Workload	FY14	FY15	FY16	FY17	FY18	FY19
From New Accident Year Claims						
TPD	12	24	35	47	59	71
PPD	184	368	553	737	921	921
Long Term Time Loss	123	246	246	246	246	246
Total Estimated Annual State Fund Workload	319	638	834	1030	1226	1238

Scenario 2 workload assumptions existing open claims for workers under age 55.
This legislation will also create workload from workers with existing open claims who will be eligible to opt for settlements.

- The estimated number of existing open claims that will voluntarily settle is 590 TPD, 2,303 PPD and 246 time-loss claims.
- The average age of TPD settlement for existing open claims is assumed at 5 years. We are assuming annual settlement of 10% of the total TPD claims in

every year for a 10 year period. (590TPD existing open claims settling over 10 years or approximately 59 per year). The existing open claim settlements for TPD claims will cease after 10 years. (SEE CHART BELOW)

- The average age of PPD settlement for existing open claims is assumed at 2.5 years. We are assuming annual settlement of 20% of the total PPD claims in every year for a 5 year period. (2,303PPD existing open claims settling over 5 years or approximately 461 per year). The existing open claim settlements for PPD claims will cease after 5 years. (SEE CHART BELOW)
- The average age of time-loss settlement for existing open claims is assumed at 1 year. We are assuming annual settlement of 50% of the time-loss claims. (246 existing open time-loss claims settling over 2 years or approximately 123 per year). The existing open claim settlements for time-loss will cease after 2 years. (SEE CHART BELOW)

Claim Resolution Structured Settlement---Workload Estimates
Existing Open Claims State Fund **Workers Under Age 55: DLI Scenario 2**

Estimated BIIA Workload	FY14	FY15	FY16	FY17	FY18	FY19
From Existing Open Claims						
***TPD**	59	59	59	59	59	59
****PPD**	461	461	461	461	461	0
*****Long Term Time Loss**	123	123	0	0	0	0
Estimated Workload	**643**	**643**	**520**	**520**	**520**	**59**

In addition to creating new workload, workers who are represented by an attorney will not have to go to conference, and the BIIA will approve the agreement unless the parties have not entered into it knowingly and willingly. This means less time spent on the represented settlements, including the workload identified in ESHB 2123 in 2011(identified in general assumption 5). We will not need additional Industrial Appeal Judges for this workload.

Based on the stated assumptions and workload estimates above, we estimate the BIIA will receive approximately 1,443 (962 State Fund; 481 Self Insured) structured settlements in FY14 and 1,921 (1,281 State Fund; 640 Self Insured) structured settlements in FY15.

- For FY 14 we will need 1.4 New Appeals Specialist and 1.8 LS1, plus funding for expedited transcripts for this workload. The estimated cost is approximately $420,000.
- For FY15 we will need 1.8 New Appeals Specialist and 2.4 LS1, plus funding for expedited transcripts. The estimated cost is approximately $560,000.

	Workload factors		FTE's					
Scenario 2- Staffing	FTE	# Settlements	FY14	FY15	FY16	FY17	FY18	FY19
1 Appeals Specialist/Legal Secretary	1	1,000	1.4	1.9	2.0	2.3	2.6	1.9
1 Legal Secretary	1	800	1.8	2.4	2.5	2.9	3.3	2.4
Note: assumes 35% of claims are non-represented and 65% are represented.								

The BIIA estimate of staffing needs has been impacted by our experience with the 2011 workers' compensation reforms. The BIIA is unable to determine the impact the proposed changes will have on the workload of the agency. It is likely the number of structured settlements will increase but our experience is not sufficient to determine the impact at this point. We will track the data and see what, if any, impact the proposed changes have on agency workload and address through the budget process if needed.

Individual State Agency Fiscal Note

Bill Number: 5128 E S SB	**Title:** Injured worker compensation	**Agency:** 235-Department of Labor and Industries

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

		FY 2014	FY 2015	2013-15	2015-17	2017-19
Account						
Accident Account-State	608-1	6,000	0	6,000	125,000	0
Medical Aid Account-State -1	609	6,000	0	6,000	125,000	0
Total $		12,000	0	12,000	250,000	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Dianne Criswell	Phone: (360) 786-7433	Date: 03/20/2013
Agency Preparation:	Melody Porter	Phone: 360-902-6648	Date: 03/22/2013
Agency Approval:	Victoria Kennedy	Phone: 360-902-4997	Date: 03/22/2013
OFM Review:	Tristan Wise	Phone: (360) 902-0538	Date: 03/22/2013

Request # ESSB 5128-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

See attached

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See attached

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts	11,280		11,280	250,000	
E-Goods and Other Services	720		720		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	$12,000	$0	$12,000	$250,000	$0

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None

Part II: Explanation

This bill allows injured workers of all ages to participate in voluntary settlement agreements (VSA) effective September 1, 2013, after 180 day from claim receipt and final and binding allowance. VSAs may resolve a claim for all workers compensation benefits other than medical. VSAs must be submitted to and approved by the Board of Industrial Insurance Appeals (BIIA). It requires the Department of Labor and Industries (L&I) to contract with an independent researcher to study VSAs and return-to-work.

This bill differs from SSB 5128 in that it removes that ability to settle medical benefits and the requirement to include a structured pay-out for those benefits to coincide with future treatment needs. This change reduced the fiscal impact.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 1: Adds a new section establishing the right to voluntary settlement agreements (VSAs).

(1) Beginning September 1, 2013, permits parties to an allowed claim for workers' compensation benefits to enter into a VSA. The VSAs must be approved by the Board of Industrial Insurance Appeals (BIIA). The VSA may:

- resolve a claim for all benefits other than medical;
- not subject an employer who is not a signatory to the VSA any responsibilities under any claim; and
- not be initiated until at least 180 days have passed since the claims was received by the department or self-insurer and the order allowing the claim is final and binding.

Section 2: Adds a new section requiring L&I to contract out for independent studies.

(1) VSA study: Requires an independent study of VSAs for 2016, 2021, and 2026. The study must evaluate the effectiveness of VSAs, provide information on the impact to employers, and evaluate the outcomes of workers.

(2) Return to Work (RTW) study: Requires an independent study to evaluate the quality and effectiveness of the RTW program, outcomes for workers, and whether the program is being utilized by employers. A report must be submitted to the Legislature by December 2016.

Section 6: Adds a new section allowing the department to adopt rules.

II. B – Cash Receipt Impact

For fiscal analysis purposes, we assume any incremental savings will equal the incremental revenue collected.

II. C – Expenditures

Operating Budget / Appropriated

Staffing

The small number of structured settlements pursuant to the 2011 workers' compensation reforms has influenced our prediction of staffing needs. In the fiscal note for ESHB 2123 (2011), we requested 13 FTEs for the settlement unit. If the age limit is removed, we would likely need more FTEs to handle the increased workload; however, due to the slow uptake of settlements we assume we're able to absorb the increased workload for the near future with existing staffing levels.

Studies

Many of the research elements required in the 2016 return-to-work program study are similar to the work done in the research study of the Vocational Rehabilitation Improvement Program (VIP). The estimated one-year cost of the VIP study was $250,000. We assume this same estimation for the return-to-work study mandated in this bill.

The VSA study required in this bill is similar to the study mandated in ESHB 2123, with changes in the years the three reports are due. For this reason, we assume no increase in costs.

The *estimated total cost for the studies is $250,000 in the 2015-2017 Biennium.*

Information Technology

Currently, there are edits in the LINIIS Benefit Payment System (BPS) that restrict VSA payments based on claimant age. The new structured settlement case management system will also have edits that need to be removed to support this change. It is estimated these edits will require 40 programmer hours. Additionally, the BPS system will need an estimated 80 hours to accommodate additional data collected and various schedule options for payment, and new data fields.

The estimated cost for contracted programming is $11,280 (120 hours x $94 per hour).

Information Technology		
Activity / Modification	**Hours**	**Cost**
Modify the BPS System to accommodate added data and scheduled and new fields	80	$ 7,520
Modify BPS to remove restrictors on age limits	40	$ 3,760
Total Information Technology:	**120**	**$ 11,280**

Claim Benefits / Non-Appropriated

These cost savings are not reflected in the Fiscal Note System FN1.

2011 Assumptions for Structured Settlements:

In 2011, the department estimated the savings impact of structured settlements, which are permitted on claims for workers age 55 and above (gradually dropping the age limit over years to 50). The predicted savings were based on assumptions about which types of claims would settle, how many, and what the average savings per claim would be.

Specifically, savings were first determined for new claims by accident year based on the number of eligible claims, and assumptions about the percentage/number of those claims that would actually settle and the anticipated savings for each claim type.

The original 2011 fiscal note was based on claim counts for the accident year ending March 31, 2010. To better reflect current conditions, we have updated the claim counts for the accident year ending March 31, 2012. This more recent year reflects four percent fewer claims overall than in 2010. The total number of claims for the accident year ending March 31, 2012 was

85,450. From that total, we subtracted fatality claims. We also assumed that settlement would only occur on long-term disability claims (where the worker has been on time-loss compensation for more than four months) because we cannot settle medical benefits, and because workers who exit the system quickly are unlikely to seek or benefit from settlement. We subtracted all other claim types from our number of eligible claims. We then separated eligible claims by benefit type for the accident year ending March 31, 2012.

Benefit types are described as:

- Total permanent disability (TPD) meaning the population of very long-term disability with a high incidence or likelihood of lifetime pension. This claim type does not include injured workers actually on pension.
- “Permanent partial disability” (PPD) are claims projected to have permanent impairment.
- Time-loss claims are those not expected to have lifetime permanent or partial disability.

Claim Type	Claimants aged 55 and older	Claimants aged under 55	Total
TPD Claims	961	392	1,353
PPD Claims	584	3,069	3,653
Time-loss Claims	468	2,459	2,927
Subtotal Non-Fatal LTD*	**2,013**	**5,920**	**7,933**
*Long-term disability			

We then assumed the percentage of eligible claims (only for claimants aged 55 and older) of each type that were likely to settle as 71 percent of TPD claims, 42 percent of PPD claims, and 15 percent of time-loss claims. This is expressed in the chart on the next page as “# of Claims Voluntarily Settled” and matches the projections by claim type from the fiscal note for structured settlements in 2011.

We then determined the percentage of claim costs that might be saved in settlement. Specifically, we assumed that claims would settle for 80 percent of the unpaid lifetime claim and related administrative costs. We further assumed that TPD, PPD, and time-loss claims settle at an average age of 60 months, 30 months, and 12 months respectively. The original 2011 fiscal note was based on claim cost data available at December 31, 2010. To better reflect current costs, the underlying claim cost data has been updated through December 31, 2012. As a result, we estimate the following savings per claim by types:

- TPD: $50,000
- PPD: $149,000
- Time-loss: $37,000

Finally, we estimated the impact of settlement on older claims, those in the system with injuries that had already occurred. We estimated that the effect on old claims incurred prior to July 1, 2011 (the inception of the 2011 workers compensation reforms) would be five times the annual effect for TPD claims, two and one-half times the annual effect for PPD claims, and one-time the annual effect for time-loss claims. This is expressed in the chart on the following page as "Old Claims Years of impact" and "Old Claims Voluntarily Settled."

2011 Fiscal Note Assumptions, with Updated Claim Count and Per Claim Savings Estimates Savings on Claims aged 55+									
Claim TYPE:	# of Claims	% of Claims that Settle	# of Claims Voluntarily Settled	Per Claim Savings Accident Fund		**Sub-Total Annual Savings on new claims**	Old Claims Years of impact	Old Claims Voluntarily Settled	**Reserve Impact on old claims**
TPD	961	71%	686	$	50,000	**$ 34.3 M**	5	3,430	**$ 171.5 M**
PPD	584	42%	243	$	149,000	**$ 36.2 M**	2.5	608	**$ 90.5 M**
Timeloss	468	15%	70	$	37,000	**$ 2.6 M**	1	70	**$ 2.6 M**
Sub-total non-fatal LTD	2,013		999	$	73,170	**$ 73.1 M**		4,108	**$ 264.6 M**

ESSB 5128 2013 Assumptions – Removing Age Limits for Voluntary Settlement Agreements

This bill expands settlement eligibility to all injured workers, regardless of age. It is difficult to determine with certainty what the impact of this expansion will be, in part because our data on actual settlement is underdeveloped due to the program being in place just over a year and the initial slow uptake in participation.

Fiscal Impact on the Accident Fund

To estimate the impact to the Accident Fund, we've provided three scenarios, using as a base the 2011 assumptions. For all scenarios, we have retained our 2011 assumption that only long-term disability claims will settle.

Scenario 1:

This scenario adjusts the assumed percentages of eligible claims likely to settle and the average savings per PPD claim settlement for younger claimants. Younger claimants may be less likely to successfully settle TPD and large PPD and time-loss claims primarily because settlements of larger claims may not be in their best interest.

For purposes of this scenario, we assumed claims for younger claimants will settle at 15 percent of TPD claims, 15 percent of PPD claims, and 10 percent of time-loss claims. In addition the average savings per PPD claim settlement was assumed to be only $75,000, roughly half of the savings per claim assumed for workers age 55 and over. The result is an increase in annual savings over the updated 2011 analysis of $46.6 million or 64 percent (=46.6M/73.1M), and an increase in unpaid claim liabilities for old claims of $110.1 million or 42 percent (=110.1M/ 264.6M). The chart below applies the new assumptions to claims for workers under age 55.

Scenario 1

Based on Accident Year ending March 31, 2012

Savings on Claims under 55								
Claim TYPE:	# of Claims	% of Claims that Settle	# of Claims Voluntarily Settled	Accident Fund Savings Per Claim	**Sub-Total Annual Savings on new claims**	Old Claims Years of impact	Old Claims Voluntarily Settled	**Reserve Impact on old claims**
TPD	392	15%	59	$ 50,000	**$ 3.0 M**	5	295	**$ 14.8 M**
PPD	3,069	15%	460	$ 75,000	**$ 34.5 M**	2.5	1,150	**$ 86.3 M**
Timeloss	2,459	10%	246	$ 37,000	**$ 9.1 M**	1	246	**$ 9.1 M**
Sub-total non-fatal LTD	5,920		765	$ 60,852	**$ 46.6 M**		1,691	**$ 110.1 M**

In 2015, settlements with claimants 53 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $43.8M. In 2016, settlements with claimants 50 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $38.5M.

Scenario 2:

This scenario was based on the assumption that overall (including older workers) 60 percent of all TPD claims, 30 percent of all long-term disability PPD claims, and 10 percent of all long-term disability time-loss claims would reach a voluntary settlement. These percentages were used in the 2011 fiscal note assumptions for ESB 5566, which also proposed settlements with no age restrictions.

Taking out the proportion of settlements assumed for claimants age 55 and older, we're left with approximately 30 percent of TPD claims, 30 percent of long-term disability PPD claims, and 10 percent of long-term disability time-loss claims for younger workers, as the table on the next page illustrates.

The result is an increase in annual savings over the updated 2011 fiscal analysis of $152.2 million or 208 percent (=152.2M/73.1M), and an increase in unpaid claim liabilities for old claims of $381.7 million or 144 percent (=381.7M/264.6M). The chart below applies these assumptions to claims under 55.

Scenario 2

Based on Accident Year ending March 31, 2012

Savings on Claims Under 55								
Claim TYPE:	# of Claims	% of Claims that Settle	# of Claims Voluntarily Settled	Accident Fund Savings Per Claim	**sub-Total Annual Savings on new claims**	Old Claims Years of impact	Old Claims Voluntarily Settled	**Reserve Impact on old claims**
TPD	392	30%	118	$ 50,000	**$ 5.9 M**	5	590	**$ 29.5 M**
PPD	3,069	30%	921	$ 149,000	**$ 137.2 M**	2.5	2,303	**$ 343.1 M**
Timeloss	2,459	10%	246	$ 37,000	**$ 9.1 M**	1	246	**$ 9.1 M**
subtotal non-fatal LTD	5,920		1,285	$ 118,468	**$ 152.2 M**		3,139	**$ 381.7 M**

In 2015, settlements with claimants 53 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $143.8M. In 2016, settlements with claimants 50 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $126.7M.

<u>Scenario 3:</u>

This scenario simply applies the same assumptions used in 2011 about what percentage of claims will settle to all age groups, as demonstrated in the following chart. We believe this scenario is highly unlikely because meeting the "best interest" standard for settlement approval may be more difficult for younger workers. The result is an increase in annual savings for new claims over the updated 2011 analysis of $217.9 million or 298 percent (=217.9M/73.1M), and an increase in unpaid claim liabilities for old claims of $559.3 million or 211 percent (=559.3M/264.6M). The chart on the next page applies the 2011 assumptions to claims for workers under age 55.

Scenario 3

Based on Accident Year ending March 31, 2012

Savings on Claims Under 55									
Claim TYPE:	# of Claims	% of Claims that Settle	# of Claims Voluntarily Settled	Per Claim Savings Accident Fund	**Sub-Total Annual Savings on new claims**	Old Claims Years of impact	Old Claims Voluntarily Settled	**Reserve Impact on old claims**
TPD	392	71%	280	$ 50,000	**$ 14.0 M**	5	1,400	**$ 70.0 M**
PPD	3,069	42%	1,277	$ 149,000	**$ 190.3 M**	2.5	3,193	**$ 475.7 M**
Timeloss	2,459	15%	369	$ 37,000	**$ 13.7 M**	1	369	**$ 13.7 M**
Sub-total non-fatal LTD	5,920		1,926	$ 113,150	**$ 217.9 M**		4,962	**$ 559.3 M**

In 2015, settlements with claimants 53 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $204.8M. In 2016, settlements with claimants 50 and older will be allowed under the current statute, so the additional annual savings from this bill will decrease to $179.4M.

In summary, the three scenarios provide variations or a range of additional savings to the Workers' Compensation Accident Fund from a low of $46.6 million to a high of $217.9 million for new accident year claims starting in Fiscal Year 2014. Because current law allows structured settlements for workers age 53 effective January 1, 2015, and age 55 effective January 1, 2016, this drops to a range of $43.8M to $204.8M in 2015 and $38.5M to $179.4M effective Calendar Year 2016. The range for the one-time impact on unpaid Accident Fund claim liabilities for old claims is $110.1 million to $559 million.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.