

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1161

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1161

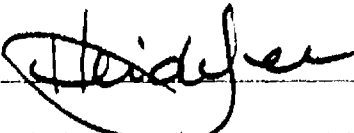
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 30, 2001

Tape Number	Side A	Side B	Meter #
2	X		0-50.3
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Evan Mandigo: *ND Workers Compensation*

Written Testimony

PPI - Permanent Partial Impairment

Brent Edison: *ND Workers Compensation*

Written Testimony and amendments offered

R. Ekstrom: (16.7) What's the bottom average threshold?

Edison: Six percent and down becomes very subjective but there's no consensus.

R. Froseth: Can they come back to collect?

Edison: Not unless there is a significant change in condition.

Mary Skaj: *Business Owner*

Oppose Amend. No employer in the study group wanted to lower the threshold.

20%-16% makes PPI too easy to get. 11%, what workers comp supports, is far too low

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1161

Hearing Date Jan 30, 2001

because at that rate people take advantage of the system. That low percentage jeopardizes business owners by costing them employees. PPI should only be for major injuries.

Sebald Vetter: (342) *C.A.R.E.*

Written Testimony opposed

David Kemnitz: (38.5) Support with amendments. Decision should be by the doctor.

Gary Nelson: *Ironworkers* We support the bill.

Dan Feneman: **Provided Written Examples.**

C. Berg: Close Hearing on HB 1161.

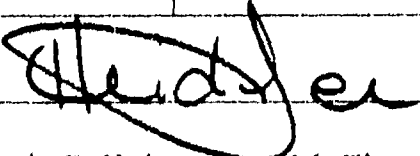
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb 14, 2001

Tape Number	Side A	Side B	Meter #
1		X	11.4-53.9
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: This bill deals with permanent partial impairment, loss of mobility. In 1995 we set the threshold at 16%. This is a judgement call by each doctor, there are no regulations. This bill will clarify that. This has to have a 2/3 vote to change completely. The bill lowers 16% to 11% and the cost is 6 millions to the fund with the amendments.

Rep Lemieux: I move the amendments presented by the bureau.

Rep Ekstrom: I second.

8 yea, 7 nay, 0 absent

Rep Kasper: I move a do not pass as amended.

Rep Ruby: I second.

8 yea, 7 nay, 0 absent

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1161(B)

Hearing Date Feb. 14, 2001

Rep Lemieux: I move to reconsider the amendments.

Rep Severon: I second.

15 yea, 0 nay, 0 absent

Rep Froese: I move to reconsider the amendments.

Rep Severson: I second.

Rep Lemieux: I move a do pass as original.

Rep Ekstrom: I second

13 yea, 2 nay, 0 absent

Carrier Rep Berg

FISCAL NOTE
 Requested by Legislative Council
 02/06/2001

REVISION

Bill/Resolution No.: HB 1161

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

**NORTH DAKOTA WORKERS COMPENSATION
 2001 LEGISLATION
 SUMMARY OF ACTUARIAL INFORMATION**

BILL DESCRIPTION: Permanent Partial Impairment

BILL NO: HB 1161 (Revised)

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, 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.

This bill will introduce PPI scheduled benefits for some specific injury types and adopt the 5th edition of the AMA Guides to Evaluation of Permanent Impairment.

FISCAL IMPACT: NDWC is proposing to adopt the 5th edition of the AMA Guidelines to reflect up-to-date medical information when evaluating disability ratings. The introduction of scheduled benefits is being proposed in response to recommendations made as part of the PPI study completed by independent claims consultants earlier this year.

Based on a review of data compiled by NDWC, we believe that the legislation, in its original form, will increase rate levels by 0.5% to 1.0%.

We believe that the impact of the change on discounted reserve levels will range between \$2.5 million and \$3.5 million.

DATE: January 26, 2001

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Kramer	Agency:	Workers Compensation
Phone Number:	328-3856	Date Prepared:	02/05/2001

FISCAL NOTE
Requested by Legislative Council
12/26/2000

Bill/Resolution No.: HB 1161

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

NORTH DAKOTA WORKERS COMPENSATION
2001 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Permanent Partial Impairment

BILL NO: HB 1161

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, 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 introduces PPI scheduled benefits for some specific injury types and adopts the 5th edition of the AMA "Guides to the Evaluation of Permanent Impairment".

FISCAL IMPACT: We understand that NDWC is adopting the 5th edition of the AMA "Guides to the Evaluation of Permanent Impairment" to reflect up-to-date medical information when evaluating disability ratings. The introduction of scheduled benefits for some specific injury types is being proposed in response to recommendations made as part of the PPI study completed by independent claims consultants earlier this year.

We have not completed an evaluation of the likely impact of the proposed change on rate and reserve levels because we do not presently have access to an appropriate base of historical experience to use in the required calculations. However, the bureau is actively working to create the necessary database. We will attempt to derive estimates of the potential effect of the changes on rate and reserve levels after we have had a chance to review the information.

We do not anticipate that the proposed changes will have a significant impact on prospective rate levels. Approximately 3% of aggregate collected premiums are presently allocated to PPI loss costs. Thus, PPI loss costs would have to change by as much as a third to generate a 1% change in the prospective rate level.

DATE: December 27, 2000

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Kramer	Agency:	Workers Compensation
Phone Number:	328-3856	Date Prepared:	12/27/2000

PROPOSED AMENDMENTS TO 2001 HOUSE BILL NO. 1161

Page 3, line 22, overstrike "fifteen" and insert immediately thereafter "ten"

Page 3, after line 22, insert:

"For eleven percent impairment	5 weeks
For twelve percent impairment	6 weeks
For thirteen percent impairment	7 weeks
For fourteen percent impairment	8 weeks
For fifteen percent impairment	10 weeks"

Page 3, line 23, overstrike "10" and insert immediately thereafter "12"

Page 3, line 24, overstrike "10" and insert immediately thereafter "14"

Page 3, line 25, overstrike "15" and insert immediately thereafter "16"

Page 3, line 26, overstrike "15" and insert immediately thereafter "18"

Page 3, line 28, overstrike "20" and insert immediately thereafter "23"

Page 3, line 29, overstrike "25" and insert immediately thereafter "26"

Page 3, line 30, overstrike "25" and insert immediately thereafter "29"

Page 3, line 31, overstrike "30" and insert immediately thereafter "32."

Page 4, line 1, overstrike "30" and insert immediately thereafter "35"

Page 4, line 2, overstrike "35" and insert immediately thereafter "38"

Page 4, line 3, overstrike "35" and insert immediately thereafter "41"

Page 4, line 4, overstrike "40" and insert immediately
thereafter "44"

Page 4, line 5, overstrike "45" and insert immediately
thereafter "47"

Renumber accordingly

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1161

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Adoption of Amend

Motion Made By Lemieux Seconded By Ekstorm

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg		✓	Rep. Jim Kasper		✓
Vice-Chairman George Kelsar	✓		Rep. Matthew M. Klein		✓
Rep. Mary Ekstorm	✓		Rep. Myron Koppang		✓
Rep. Rod Froelich		✓	Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby		✓
Rep. Nancy Johnson	✓		Rep. Dale C. Severson		✓
			Rep. Elwood Thorpe	✓	

Total (Yes) 8 No 7

Absent 0

Floor Assignment Rep Berg

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1161

House Industry, Business and Labor Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as amended

Motion Made By Kasper Seconded By Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser		✓	Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm		✓	Rep. Myron Koppang		✓
Rep. Rod Froelich		✓	Rep. Doug Lemieux	✓	
Rep. Glen Froseth		✓	Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen		✓	Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe		✓

Total (Yes) 8 No 7

Absent 0

Floor Assignment Rep Berg

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-01
Roll Call Vote #: 5

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1161

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Reconsideration

Motion Made By Lemieux Seconded By Sveinson

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Second

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-01
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1161

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Lemieux Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser		✓	Rep. Matthew M. Klein	✓	
Rep. Mary Ekstrom		✓	Rep. Myron Koppang	✓	
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 13 No 2

Absent 0

Floor Assignment Rep Berg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 12:55 p.m.

Module No: HR-27-3327
Carrier: Berg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1161: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends
DO PASS (13 YEAS, 2 NAYS, ABSENT AND NOT VOTING). HB 1161 was placed on
the Eleventh order on the calendar.

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1161

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 05, 2001.

Tape Number	Side A	Side B	Meter #
1	x		17.6 to end
		x	0 to 10.8
03/12/01 2	x		38.1 to 48.7
Committee Clerk Signature <i>Doris E Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1161 relating to workers' compensation permanent impairment awards; and to provide an effective date.

Bob Indvik, Vice-Chairman ND Workers' Compensation Board of Directors. Provided brief description of the bill and the Board's position. Written testimony attached.

Brent Edison, VP of Legal and Special Investigations, NDWC, in support of the bill. Submitted proposed amendments approved by the Board. Provided committee members with copies of the "Interim Permanent Partial Impairment Study". Written testimony and copy of the study attached.

Senator Klein: Why the amendments now?

B Edison: Amendments were submitted to House IBL, the bill came out of committee amendments didn't.

Senator Klein: With the amendments we are looking to between two and a half and three million dollars?

B Edison: Original bill's fiscal note and actuarial information assumed between .5 to 1 % effect on rates. Anticipated rate decrease will be offset by that percent and the effect on reserves of 2.5 to 3.5 million dollars. Over and above that, the amendments which reduce the threshold will be 2.5 to 3.5 million. Effect of the amendments will be the same as the original bill.

Senator Mutch: The original bill hit on the fund biennial or annual?

B Edison: Total impact over time.

Senator Klein: Funding will come out of the reserve or from additional employer premiums?

B Edison: On employers .5 to 1%, amendments same percent. Premium reductions won't be as large.

Senator Mutch: Each biennium how much will the expenditures be?

B Edison: Five to seven million will be the total effect of the bill and the proposed amendment. Will not be during the next biennium but will happen in the future, will affect the reserve.

Chuck Peterson, GNDA, in support of this bill but oppose change in threshold. Worker's Compensation Board vote on threshold was 4 to 3, with one member absent. They reconsidered and the vote was 4 to 4, with tied vote initial vote stood, so Board is divided. Worried if ancillary costs like administration, litigation, etc... were considered. Written testimony attached.

Gary Nelson, Business managers, Ironworkers' Local 793. Support bill as amended. Written testimony attached.

Dave Kemnitz, ND AFL-CIO, in support of bill and amendment. Eleven percent is point in which we concede. We agreed to honor it and participate. Mr. Peterson's study said 16% was not fair.

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1161

Hearing Date March 05, 2001.

Sebald Vetter, C.A.R.E. In support of bill. Would like to amend a few things. Handed out PI compensation award samples. I would like to amend these cases so injured worker would get compensation benefits.

Committee discussed with Mr. Edison impairment percentages.

Dan Finneman, injured worker. Eleven percent is compromise figure we are willing to go with.

Opposing testimony: none. Hearing concluded.

March 12/01. Tape 2-A-38.1 to 48.7

Committee reconvened. All members present. Discussion held. **Senator Every**: Motion to adopt amendment. **Senator Mathern**: Second. Roll call vote: 2 yes; 5 no. Motion failed.

Senator Espgaard: Motion: do pass. **Senator Klein**: Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Mutch**.

Date: 3/12/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1161

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt amendment

Motion Made By Sen Every Seconded By Sen Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman		✓	Senator Every	✓	
Senator Klein - Vice Chairman		✓	Senator Mathern	✓	
Senator Espgaard		✓			
Senator Krebsbach		✓			
Senator Tollefson		✓			

Total (Yes) 2 No 5

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/12/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1161

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Espeland Seconded By Sen Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espeland	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Mutch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 14, 2001 8:22 a.m.

Module No: SR-44-5536
Carrier: Mutch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1161: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1161 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1161

To: Sebald Vetter
From: Chuck Kocher *CK*
Date: 10/10/00
RE: Payment Information

I am writing this memorandum in follow up to your request for information relating to payments made by the North Dakota Worker's Compensation Bureau. The following payments were made by the Bureau during the period July 1, 1999 through June 30, 2000.

Office of Independent Review(OIR): \$168,124.

Corvel - Rehabilitation Firm: \$1,382,776

Outside doctor reviews: Still being researched as this information is not readily available on the system.

Social security offset information should be available shortly.

N D W C

Office of Independent Review

MEMORANDUM DISPUTE RESOLUTION SERVICES

TO: Sebald Vetter
FROM: Ron Moxon
SUBJ: Your Request for Information
DATE: November 14, 2000

The following information is provided to you following your request for the dollar value and number of cases in which our office was successful in effecting a change in a previous Bureau decision.

-Number of Cases in which OIR was successful:	60
(period of time involved, Jan 1, 2000 - 30 Sep 2000)	
-Dollar value of changes	\$144,195.53
-Value of Stipulations refused by client	14,199.85
-Value of Settlements in progress	109,218.65
total	\$267,614.03

Other Information regarding these cases:

- \$4,102.20 represents value of waived overpayments
- Other factors which cannot be quantified at this time:
 - Additional reserves established
 - Attorney fees saved
 - Value of compensability decision
 - Future benefits to be gained

I believe this information should respond to your request.

NORTH DAKOTA
Workers Compensation

HB 1161

Paul R. Kramer
Executive Director & CEO

500 East Front Avenue
Bismarck ND 58504-5685

January 5, 2001

Mr. Sebald Vetter
C.A.R.E.
1323 East Front Ave
Bismarck, ND 58504

Re: Open Records Requests

Dear Mr. Vetter:

This letter will constitute North Dakota Workers Compensation's (NDWC's) response to the open records requests described in your December 21, 2000 letter.

In your letter you asked for information on 1) total salaries paid to NDWC employees from 7/1/99 to 6/30/00; 2) total amount of rent paid at NDWC's Bismarck office building from 7/1/99 to 6/30/00; 3) number of medical only and time loss claims filed between 7/1/97 to 6/30/98, 7/1/98 to 6/30/99, and 7/1/99 to 6/30/00; 4) amount of attorney fees paid to outside counsel during 7/1/98 to 6/30/99 and 7/1/99 to 6/30/00; 5) total number of employees employed by NDWC; 6) total number of employees employed by Corvel; and 7) number of investigators employed in NDWC's fraud unit.

Request #1

Total salaries paid to NDWC employees from 7/1/99 to 6/30/00.

Salaries:	5,510,210
Benefits:	1,634,264
Total:	7,144,474

Request #2

Total amount of rent paid at NDWC's Bismarck office building from 7/1/99 to 6/30/00.

Rent:	433,000
Utilities/Tax/Other:	52,620
Total:	485,620

Request #3

Number of medical only and time loss claims filed between 7/1/97 to 6/30/98, 7/1/98 to 6/30/99, and 7/1/99 to 6/30/00.

	FY98	FY99	FY00
Medical Only:	17,576	17,194	17,399
Time Loss:	3,107	2,840	2,646
Total:	20,683	20,034	29,045

Request #4

Amount of attorney fees paid to outside counsel during 7/1/98 to 6/30/99 and 7/1/99 to 6/30/00.

FY99: 1,106,213

FY00: 938,759

Request #5

Total number of employees employed by NDWC.

FY00: 177 FTE

Request #6

Total number of employees employed by Corvel.

We don't have the figures to tell you how many employees Corvel employs, but we can tell you that NDWC contracts with approximately 15 vocational rehabilitation consultants who are employed by Corvel.

Request #7

Number of investigators employed by NDWC's fraud department.

Investigators: 3

If you have any questions regarding this response to your request, please contact our office.

Sincerely,



Tammy Dolan
Vice President
Employer and Fiscal Services

TD:AT

NORTH DAKOTA
Workers Compensation

Paul R. Kramer
Executive Director & CEO

500 East Front Avenue
Bismarck ND 58504-5685

TO: Sebald Vetter, CARE Organization

FROM: Charles J. Kocher, Ombudsman,
Quality Assurance & Constituency Services

DATE: January 22, 2001

You recently requested information pertaining to the amount of money Workers Compensation spent in the way of out of state independent medical evaluations (IME).

A review of the records for fiscal year 2000 commencing July 1999 through June 2000, totals approximately \$67,884.00.

If I can be of any further assistance, please contact me.

NORTH DAKOTA
Workers Compensation

Paul R. Kramer
Executive Director & CEO

500 East Front Avenue
Bismarck ND 58504-5685

January 23, 2001

Mr. Sebald Vetter
C.A.R.E.
1323 East Front Ave
Bismarck, ND 58504

Re: Open Records Requests

Dear Mr. Vetter:

This letter will constitute North Dakota Workers Compensation's (NDWC's) response to the open records requests described in your January 16, 2001, letter.

In your letter you asked for information on 1) the cost of the fraud billboards located along highways in North Dakota, 2) amount of money paid back to NDWC by injured workers who have committed fraud, and 3) amount paid in salaries and benefits to in-house investigators and the amount of money paid to outside investigators from July 1, 1999, to June 30, 2000.

Request #1

On July 1, 2001, NDWC initiated an employer fraud campaign, part of which included the use of billboards. There are currently eight billboards throughout the state that cost NDWC a total of \$2,800 per month.

Request #2

NDWC is unable to grant Request #2. NDWC does not keep a separate account to monitor the amount of restitution paid by those found guilty of fraud. However, I can tell you that since the Special Investigations Unit was initiated in 1994, approximately \$12.8 million has been saved.

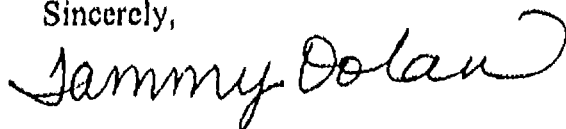
Request #3

Amount paid in salaries and benefits to in-house investigators and the amount of money paid to outside investigators from July 1, 1999, to June 30, 2000:

Three in-house investigators:	\$129,019
Private investigators:	\$413,202

If you have any questions regarding this response to your requests, please contact our office.

Sincerely,



Tammy Dolan
Vice President
Employer and Fiscal Services

TD:AT

Check Number	Payee	Date Of Service	Exp. Code	Pr	Amount Billed	Amount Approved	Charg Ind.	Red. Rsn.	Reduction Reason Description
5022199	CORVEL CORPORATION	08/26/1999	008	-	\$247.90	\$247.90	y		
5033336	CORVEL CORPORATION	08/03/1999	008	-	\$646.35	\$646.35	y		
5027669	CORVEL CORPORATION	09/27/1999	008	-	\$201.00	\$201.00	y		

Printed Date: 01/19/2001

5038695	CORVEL CORPORATION	11/22/1999	008	-	\$127.30	\$127.30	y		
5051531	CORVEL CORPORATION	01/25/2000	008	-	\$241.20	\$241.20	y		
5062806	CORVEL CORPORATION	03/21/2000	008	-	\$217.96	\$217.96	y		
5060985	CORVEL CORPORATION	05/23/2000	008	-	\$221.71	\$221.71	y		
5088443	CORVEL CORPORATION	07/19/2000	008	-	\$140.67	\$140.67	y		
5082995	CORVEL CORPORATION	06/21/2000	008	-	\$127.37	\$127.37	y		
5112550	CORVEL CORPORATION	08/10/2000	008	-	\$1,294.40	\$1,294.40	y		
5069391	CORVEL CORPORATION	01/20/2000	008	-	\$232.44	\$232.44	y		
5056054	CORVEL CORPORATION	02/22/2000	008	-	\$225.45	\$225.45	y		
5044145	CORVEL CORPORATION	01/11/2000	008	-	\$107.20	\$107.20	y		
5037635	CORVEL CORPORATION	10/26/1999	008	-	\$147.40	\$147.40	y		
Provider Total					\$4,178.85	\$4,178.85			

Check Number	Payee	Date Of Service	Exp. Code	Procedure Code	Amount Billed	Amount Approved	Charg Ind.	Red. Rsn.	Reduction Reason Description
778444	EMP1 INC	11/19/1996	025	E0730	\$65.00	\$65.00	y		

DB

Dave Finneman
HB 1161

CorVel Corporation
1380 Energy Lane
Suite 205
St. Paul, MN 55108
612 641 0433
Facsimile 612 642 0142
Federal Tax I.D. No. 95-3382819



CorVel

INVOICE

Dawn Bender
North Dakota Workers' Compensation Bureau
500 East Front Avenue
Bismarck ND 58504-5685

INVOICE FOR SERVICES RENDERED

348663 Invoice #: 929221
Daniel Finneman Date: 10-12-00
QRC: Brian Slaughter
Claim #: 1985 450583 T13

Description/Comments	Date	\$ Amount
Flat Rate Agreement VCR - Option F	8-10-00 to 9-19-00	\$1280.00
Mileage and Transit		14.40

Total Due \$1294.40

Federal I.D. #: 95-3382819

RN

1294.40

CUSTOMER 22316 NO WORKERS COMP BUREAU DISTRICT 16 F
 CLIENT 348663-SPINNEHAN, DANIEL OFFICE 6 N
 MANAGER 9758 BETH ANN VESDER B-T-D 2,
 WORKER 4516 BRIAN SLAUGHTER C-T-D

DATE SVC ACTIVITY DESCRIPTION COM COMMENT DESCR

10/13/99 724 RESEARCH 0
 10/26/99 724 RESEARCH 0
 11/03/99 724 RESEARCH 0
 11/03/99 741 RESEARCHING PUB. LEADS 0
 5/17/00 729 TRANSFERABLE SKILLS ANALY 0
 5/18/00 741 RESEARCHING PUB. LEADS 0
 5/23/00 741 RESEARCHING PUB. LEADS 0
 8/10/00 701 PHONE CALL TO EMPLOYEE 0
 8/10/00 701 PHONE CALL FROM EMPLOYEE *Deleted*
 8/10/00 701 PHONE CALL FROM EMPLOYEE 0
 8/10/00 702 MEETING WITH EMPLOYEE *Deleted* ?
 8/10/00 702 MEETING WITH EMPLOYEE 0
 8/10/00 744 WAIT TIME EMPLOYEE 0
 8/10/00 751 TRANSIT *Deleted* ?
 8/10/00 751 TRANSIT 0
 8/17/00 735 PLANNING/PREPARATION VOCA 0
 8/18/00 701 PHONE CALL TO EMPLOYEE 0
 8/18/00 722 CORRESPONDENCE TO PHYSICI 0
 8/22/00 705 PHONE CALL TO MEDICAL CAS 0 709
 8/22/00 705 PHONE CALL FROM MEDICAL F 0
 8/22/00 709 PHONE CALL TO CLAIMS ANAL 0
 8/24/00 705 PHONE CALL TO MEDICAL FAC 0
 8/25/00 701 PHONE CALL TO EMPLOYEE 0
 8/28/00 400 EXPENSE 0
 8/28/00 705 PHONE CALL TO MEDICAL FAC 0
 9/01/00 400 EXPENSE 0
 9/01/00 701 PHONE CALL TO EMPLOYEE 0
 9/05/00 400 EXPENSE 0
 9/05/00 705 PHONE CALL TO MEDICAL FAC 0
 9/06/00 400 EXPENSE 0
 9/06/00 701 PHONE CALL TO EMPLOYEE 0
 9/07/00 400 EXPENSE 0
 9/07/00 400 EXPENSE 0
 9/07/00 705 MEDICAL CONTACT 0
 9/07/00 705 MEDICAL CONTACT 0
 9/08/00 722 CORRESPONDENCE TO CLAIMS 0
 9/11/00 400 EXPENSE 0
 9/11/00 701 PHONE CALL TO EMPLOYEE 0
 9/11/00 705 PHONE CALL TO MEDICAL CAS 0 709
 9/11/00 709 PHONE CALL FROM CLAIMS AN 0
 9/11/00 709 PHONE CALL TO CLAIMS ANAL 0
 9/12/00 400 EXPENSE 0
 9/12/00 701 PHONE CALL TO EMPLOYEE 0
 9/12/00 705 PHONE CALL TO MEDICAL FAC 0
 9/12/00 705 PHONE CALL FROM MEDICAL F 0
 9/12/00 709 PHONE CALL TO CLAIMS ANAL 0

9/13/00 709 PHONE CALL FROM CLAIMS AN 0
 9/13/00 709 PHONE CALL TO CLAIMS ANAL 0
 9/14/00 705 PHONE CALL TO MEDICAL FAC 0
 9/15/00 721 MEETING WITH CORNEL GEPER 0 *Staffing w/*
 9/18/00 749 REVIEW OF CORRESPONDENCE 0
 9/19/00 713 REPORT WRITTEN VOCATIONAL 0

Sub-Total

CORVEL CORPORATION
1380 ENERGY LANE, SUITE 305
ST. PAUL, MN 55108

(651) 642-1717

36165286

8/30/99

22319

348663-2

34-21

ND WORKERS COMP BUREAU
300 EAST FRONT AVENUE
BISMARCK ND 58504-5685

FINNEMAN, DANIEL

98 480583 T13

ATTN: D. BENDER

WESTERN OIL WELL SERVICE

INJURY DATE: 4/25/95

IRC
Christine Kayser

8/03/99 CLIENT CONTACT	701	0.10	67.000	6.70
8/03/99 CASE CONTACT	709	0.10	67.000	6.70
8/03/99 CASE CONTACT	709	0.20	67.000	13.40
8/03/99 FILE REVIEW	710	0.50	67.000	33.50
8/04/99 CLIENT CONTACT	701	0.10	67.000	6.70
8/04/99 CLIENT CONTACT	701	0.30	67.000	20.10
8/05/99 CLIENT CONTACT	701	0.10	67.000	6.70
8/05/99 REVIEW MEDICAL REPORTS	723	0.20	67.000	13.40
8/06/99 CLIENT CONTACT	701	0.10	67.000	6.70
8/06/99 CASE CONTACT	709	0.10	67.000	6.70
8/06/99 WAIT TIME	744	1.30	67.000	87.10
8/06/99 TRANSIT (1/2 RATE)	751	3.00	33.500	100.50
8/09/99 CLIENT CONTACT	701	0.10	67.000	6.70
8/09/99 INITIAL INTERVIEW	711	1.50	67.000	100.50
8/09/99 TRANSIT (1/2 RATE)	751	1.50	33.500	50.25
8/10/99 CORRESPONDENCE	722	0.20	67.000	13.40
8/25/99 INITIAL REPORT	712	1.40	67.000	93.80
8/06/99 MILEAGE	412		198 0.250	49.50
8/09/99 MILEAGE	412		98 0.250	24.50

Professional Hrs. 6.3
Transit Hrs. 4.5

SUB-TOTALS 646.85

BILLED TO DATE (EXCL CURRENT): 0.00

646.85

IRS# 95-3382819

House Bill No. 1161

**Fifty-Seventh Legislative Assembly
Before the House Industry, Business and Labor Committee
January 30, 2001**

**Testimony of Evan Mandigo
North Dakota Workers Compensation Board of Directors**

Good morning, Mr. Chairman and members of the committee. My name is Evan Mandigo and I am employed by a locally headquartered consumer owned energy company. I am also a member of the Board of Directors of the North Dakota Workers Compensation Bureau.

The 56th Legislative Assembly passed HB 1422 which directed Workers Compensation to study the issue of Permanent Partial Impairments (PPI) and present the results of the study to a committee of the Legislature before the next session. The study was prepared by Mr. Malcolm Dodge of Professional Risk Management of Oakland, California with the assistance of Pacific Actuarial Consultants and Bureau staff. The study was presented to an interim committee on September 11, 2000. HB 1161 with proposed amendments is the legislation submitted for your consideration in response to the four recommendations contained in the study. The Board of Directors supports the legislation.

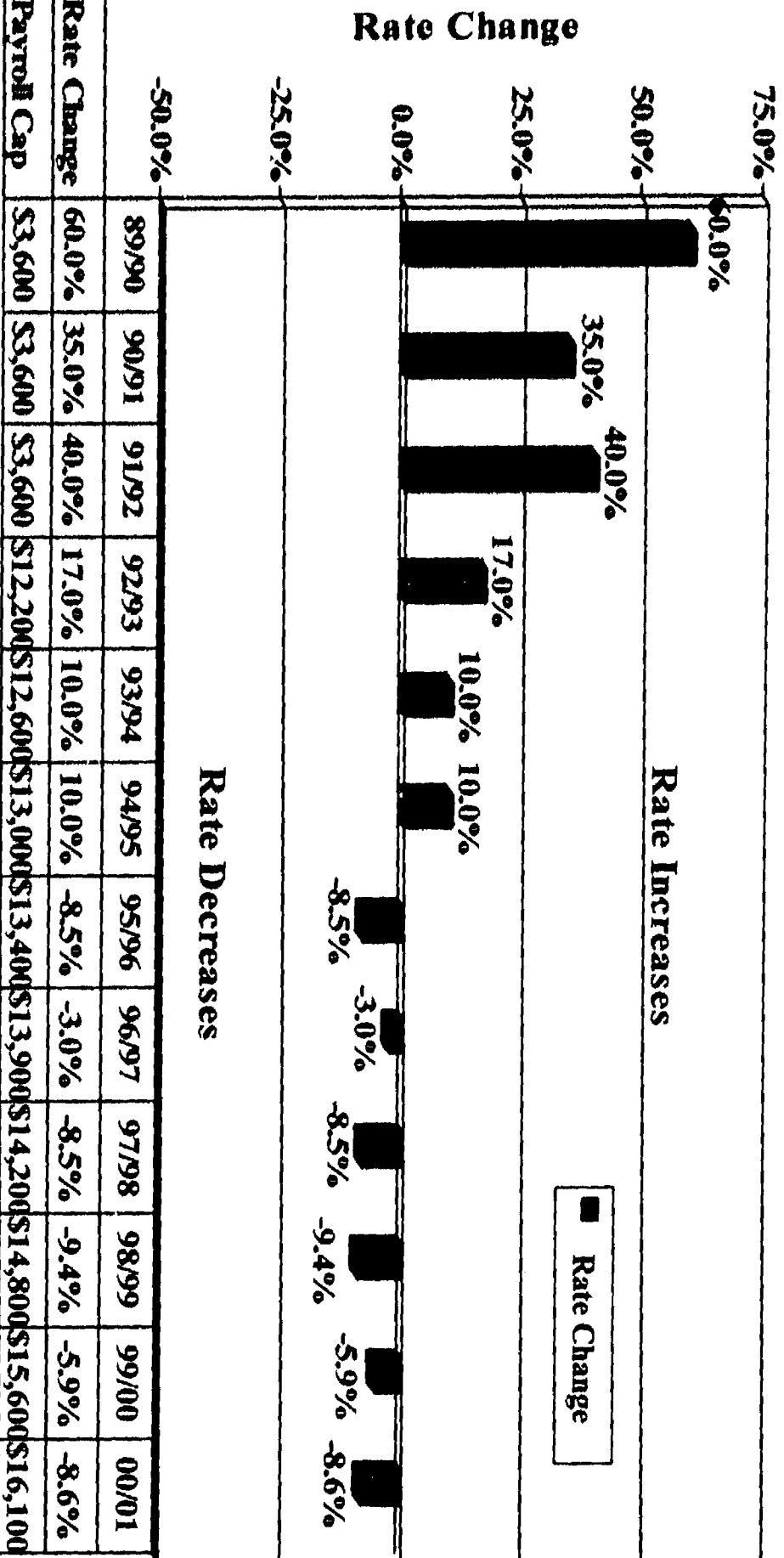
HB 1161 with proposed amendments implements the study findings with 3 changes to the existing law.

1. Implements Edition 5 of the *AMA Guides to Evaluation of Permanent Impairment* which is the most current standard for evaluating PPI
2. Proposes a schedule that addresses impairment benefits for amputations and loss of an eye.
3. Reduces the threshold for calculation of a PPI award from the existing 16% that was established in the 1995 session to 11%.

I will be followed by Bureau staff who will provide more detailed testimony for your consideration. I will be happy to respond to any questions you may have.

NDWC Rate Change History

by Fiscal Year



-Rate changes are effective July 1 of each fiscal year.

NDWC

Example 15-1

0% Impairment Due to Lumbar Injury

Subject: 24-year old man.

History: Hurt his back while lifting a large, heavy box; described the pain as being in the lumbosacral region. Examination shortly after the injury was normal, except for a slight decrease in lumbar motion due to pain. No muscle spasm or weakness. The individual was treated with an analgesic. He was off work for 3 days and then returned and has continued to work.

Current Symptoms: Occasional soreness in the low back with heavy lifting; denies leg pain or numbness.

Physical Exam: No positive finding was present, including a negative SLR, normal strength, range of motion, and normal neurologic examination. No atrophy.

Clinical Studies: None.

Diagnosis: Minor Lumbar strain.

Impairment Rating: 0% impairment of the whole person.

Comment: Since there are no objective findings at the time of the impairment evaluation, the individual is assigned to lumbar DRE category I."

AMA Guides (5th ed.) at p. 385

Example 15-2

5% to 8% Impairment Due to Lumbar Injury

Subject: 25-year-old man.

History: Onset of low back and left thigh pain while lifting on the job. Examination revealed muscle spasm, a positive SLR on the left at 60°, a positive crossed SLR at 70°, and an absent left Achilles tendon reflex. Treated with physical therapy, improved, and returned to work after 6 weeks.

Current Symptoms: No pain at rest or numbness in the lower extremities 1 year after onset. Able to perform all ADL; some back pain with heavy activity.

Physical Exam: Full range of motion of the lumbar spine. SLR: negative. Motor and sensory functions are normal.

Clinical Studies: MRI: left posterolateral disk herniation L5-S1.

Diagnosis: Left posterolateral disk herniation L5-S1 with left S1 radiculopathy, resolved.

Impairment Rating: 5% impairment of the whole person.

Comment: This individual had a radiographically confirmed herniated disk, at the level and side expected from the physical examination. Most symptoms resolved with conservative treatment. At the time of evaluation, the individual was doing well, with no evidence of residual radiculopathy."

AMA Guides (5th ed.) at p.385.

Example 15-3

10% to 13% Impairment Due to Surgically Treated Herniated Disk

Subject: 25-year-old man.

History: Onset of back and left posterior thigh and leg pain while twisting in a flexed position when lifting a moderately heavy package. Initially presented with muscle spasm, a positive crossed SLR at 70°, and an absent left Achilles tendon reflex. Treatment with physical therapy did not produce significant improvement. Underwent surgical discectomy 3 months after the injury. Improved and returned to work without restrictions after 4 months of rehabilitation.

Current Symptoms: No pain at rest or numbness in the lower extremities 8 months after injury. Able to do most ADL but complains of back pain with heavy activity.

Physical Exam: Full range of motion of the lumbar spine. Loss of the Achilles reflex but normal motor and sensory functions. SLR: negative.

Clinical Studies: Original MRI: herniated disk at L5-S1. No additional studies have been done.

Diagnosis: Left posterolateral herniated disk at L5-S1 with left S1 radiculopathy, partially resolved status postdiscectomy.

Impairment Rating: 10% impairment of the whole person.

Comment: Symptoms, physical findings, and imaging studies are all consistent with symptomatic herniated disk. Most symptoms and signs resolved with surgical treatment."

AMA Guides (5th ed.) at p.386.

Example 15-4

10% to 13% Impairment Due to Radiculopathy

Subject: 45-year-old man.

History: New onset of back and left leg pain while lifting on the job. Initially presented with muscle spasm, a positive SLR on the left side at 60°, a positive crossed SLR at 70°, and an absent left Achilles tendon reflex. An MRI revealed a left posterolateral disk herniation at L5-S1. Was treated with analgesics and physical therapy but did not improve. Underwent surgical discectomy 3 months after the injury. Some improvement in the symptoms after 9 months of rehabilitation.

Current Symptoms: Persistent back and thigh pain and numbness along the lateral side of the foot at rest. Unable to do his usual recreational and some household activities.

Physical Exam: Restricted lumbar motion. Loss of the Achilles reflex, numbness in the S1 nerve root distribution and pain in the posterior thigh and leg on SLR.

Clinical Studies: Original MRI: herniated disk at L5-S1. Postoperative MRI and gadolinium: fibrosis but no residual or recurrent herniation.

Diagnosis: Chronic low back pain and radiculopathy.

Impairment Rating: 13% impairment of the whole person.

Comment: Symptoms, physical findings, and imaging studies are all consistent with a symptomatic herniated disk. Symptoms did not completely resolve after surgical treatment, with subjective and objective signs of persistent radiculopathy. Individual therefore qualifies for DRE lumbar category III. Because of significant persistent symptoms that limit the ability to perform ADL and continued objective findings, the impairment rating is increased to 13%."

AMA Guides (5th ed.) at p.386.

Example 15-7
0% Impairment Due to
Thoracic Injury

Subject: 44-year-old man.

History: Working from home spending many hours on the phone and computer.

Current Symptoms: Chronic, bilateral, upper back discomfort under the scapula area worsened 3 to 4 months ago, but unchanged since. Feels better when not working at the computer.

Physical Exam: Hunched posture. Minimal tenderness to deep palpation over the descending trapezius muscles and the periscapular area, right side more pronounced. Otherwise normal examination.

Clinical Studies: None.

Diagnosis: Upper back pain.

Impairment Rating: 0% impairment of the whole person.

Comment: The individual was educated concerning the importance of proper posture an appropriate workstation, and the need for stretching and strengthening exercise to alleviate the temporary discomfort."

AMA Guides (5th ed.) at p.389.

Example 15-8
5% -8% Impairment Due to
Thoracic Injury

Subject: 56-year-old man

History: Laborer with prior history of multiple musculoskeletal injuries during college football, from which he had fully recovered. Developed severe right-sided, radiating arm pain with tingling along the chest and the underside of the right arm while moving a refrigerator. Most of the pain has disappeared, but individual still has some discomfort when lifting the right arm above shoulder level.

Current Symptoms: Persistent numbness along the medial right arm.

Physical Exam: Numbness along T1-3 dermatomal area in chest, not clearly defined.

Clinical Studies: MRI: degenerative disk changes at T1-2. Radiographs: osteophyte T1, T2 levels.

Diagnosis: Degenerative disk disease T1.

Impairment Rating: 5% impairment of the whole person.

Comment: Impairment rating would increase by up to 3% if individual was able to do ADL as indicated in Table 1-2."

AMA Guides (5th ed.) at p.390.

Example 15-9
15% to 18% Impairment Due
to Thoracic Injury

Subject: 35-year-old man.

History: Individual fell from the second floor of a building on which he was working and sustained a compression fracture of T8. After conservative treatment, able to perform most ADL and walk without braces or crutches.

Current Symptoms: Minor back pain with heavy physical activity. Left lower extremity weakness and numbness in the left leg.

Physical Exam: Spotty numbness in the left leg and grade 4/5 left leg weakness. Measurable atrophy of left thigh and leg. Left leg reflexes are slightly hypoactive.

Clinical Studies: Compression fracture of T8 with loss of height of the vertebral body of about 30%.

Diagnosis: Compression Fracture T8 with residual left lower extremity neurologic involvement.

Impairment Rating: 15% impairment of the whole person.

Comment: This individual qualifies for DRE thoracic category III because of his ongoing neurologic deficits and structural inclusion of a compression fracture with 25% to 50% loss of height."

AMA Guides (5th ed.) at p.390.

**"Example 15-12
0% Impairment Due to
Cervical Injury**

Subject: 37-year-old man.

History: Complaints of neck discomfort when painting.

Current Symptoms: Intermittent neck pain, occasionally extending into upper back bilaterally, more so on the left side.

Physical Exam: Full neck motion, but pain at the extremes; some tenderness over the trapezius muscles; no spasm; no neurologic findings.

Clinical Studies: Radiographs: normal cervical spine.

Diagnosis: Intermittent cervical neck strain.

Impairment Rating: 0% impairment of the whole person.

Comment: No evidence of permanent impairment, without objective signs. Advised to do appropriate stretching and neck exercises regularly, before and after vigorous activity."

AMA Guides (5th ed.) at p.393.

**"Example 15-13
5% -8% Impairment Due to
Cervical Injury**

Subject: 37-year-old woman.

History: Pain in the neck and lateral right upper extremity extending to the thumb following a rear-end auto collision. An MRI showed a herniated disk at C6. She elected non-operative treatment and recovered after 18 months.

Current Symptoms: Some residual neck pain with physical activity; upper limb symptoms have resolved.

Physical Exam: Slight loss of motion of the cervical spine. Neurologic examination is normal.

Clinical Studies: Initial MRI: right posterolateral disk herniation at C5. No additional imaging studies where done.

Diagnosis: Herniated disk C5-6 with resolved right C6 radiculopathy.

Impairment Rating: 5% impairment of the whole person.

Comment: The individual qualifies for DRE cervical category II because she had a radiculopathy caused by a herniated disk that responded to treatment. She has no significant residual signs."

AMA Guides (5th ed.) at p.393.

**"Example 15-14
15% -18% Impairment Due to
Cervical Injury**

Subject: 44-year-old man.

History: Sustained a blow to his posterior neck from a machine support that slipped. Unable to use his dominant left hand for AFL without considerable pain in neck, left upper back, and ulnar left upper limb. No discomfort in the lower extremities. Refuse surgery.

Current Symptoms: Neck pain, radiating to the ulnar hand with numbness of the ring and little fingers.

Physical Exam: Decreased range of motion in the neck with severe radiating pain to the left arm in a C6 distribution.

Clinical Studies: MRI: left posterolateral disk herniation C7-8.

Diagnosis: Radiculopathy due to disk herniation C6.

Impairment Rating: 18% impairment of the whole person.

Comment: Residual symptoms and functional limitations to perform ADL."

AMA Guides (5th ed.) at p.394.

House Bill No. 1161

Fifty-seventh Legislative Assembly
Before the House Industry, Business and Labor Committee
January 30, 2001

Testimony of Brent J. Edison
North Dakota Workers Compensation

Mr. Chairman, Members of the Committee:

My name is Brent Edison. I am the Vice President of Legal and Special Investigations for North Dakota Workers Compensation (NDWC) and I am here to testify in support of 2001 House Bill No. 1161. I am also here to present the committee with proposed amendments to the bill and to testify in support of the proposed amendments. The Workers Compensation Board of Directors approved of both the original bill and the proposed amendments.

In 1999, the Legislative Assembly passed House Bill No. 1422, which required that a study be conducted of North Dakota's permanent partial impairment (PPI) awards system. This bill and the proposed amendments follow the recommendations of the study mandated by 1999 House Bill No. 1422. Copies of the report from the study are included with my written testimony.

1. History of Permanent Impairment Awards.

The American Medical Association's, *"Guides to the Evaluation of Permanent Impairment"* define "impairment" or "permanent impairment" as "a loss, loss of use, or derangement of any body part, organ system, or organ function." "Impairment" is not the same thing as "disability" which the *AMA Guides* define as "an alteration of an individual's capacity to meet personal, social, or occupational demands or statutory or regulatory requirements because of an impairment." The workers compensation system in North Dakota provides for payment of both disability benefits and permanent partial impairment or "PPI" benefits.

Prior to 1989, an injured worker with a 10% permanent partial impairment was entitled to an impairment award computed at the rate of \$60 per week for 50 weeks, paid in a lump sum of \$3,000. In 1989, the \$60 weekly benefit was increased to 33 1/3% of the statewide average weekly wage (SAWW). As a result, the award for a 10% permanent partial impairment increased from \$3,000 to \$5,211.50 (50 weeks x 33 1/3% of SAWW of \$313) in 1989.

The growth in PPI awards following the 1989 legislation was one factor that contributed to the financial crisis that faced the workers' compensation fund in the 1990's. The 1995 Legislative Assembly responded to the crisis by placing certain restrictions on workers' compensation benefits. One of the bills enacted in 1995 completely overhauled the system for awarding PPI benefits. The 1995 law provided that no award would be paid for impairments lower than the PPI "threshold" of 16%, reducing eligible PPI awards by 83%.

The tough choices made by the 1995 Legislative Assembly worked to restore financial stability to the workers' compensation fund. After many years of operating with an unfunded liability, the fund is now solvent, ending fiscal year 2000 with a total unallocated fund equity, including a contingency reserve, of \$376 million. That amounts to a *half billion dollar* improvement over a ten year period.

Improvements in the financial health of the fund have prompted calls to relax some of the measures that were taken to restore fiscal stability back in 1995. NDWC's response to those demands has been to urge caution, lest the fund return to the days of unfunded liability and double digit premium rate increases. Additional caution is necessary because the fund equity figure of \$376 million assumes a rate of return on NDWC assets of 6% per year. NDWC's goal is to meet private industry standards by showing future liabilities on an undiscounted basis.

The 1995 PPI law was referred to the voters, who affirmed the new law on June 11, 1996. Under Article III, section 8 of the North Dakota Constitution, a law approved upon referral cannot be repealed or amended except by two-thirds vote in both legislative chambers. Thus, House Bill No. 1161 will require a two-thirds vote in both the House and the Senate to be enacted.

On January 25, 1999, NDWC provided this committee with NDWC's strategy to allocate future improvements in the fund's financial condition to three areas:

1. Continue to build up the fund's financial reserves.
2. Grant further premium rate decreases to employers.
3. Propose legislation containing targeted increases in benefits to injured workers.

Since that time, the fund's financial reserves have continued to grow and premium rates have continued to decrease. As a result, NDWC is now in a position to pursue the third-prong of its strategy by proposing this bill as a prudent increase in the value of PPI awards that will provide additional benefits to injured workers without jeopardizing the future financial health of the fund.

2. Permanent Impairment Awards Study.

Section 3 of 1999 House Bill No. 1422 provided as follows:

"PERMANENT IMPAIRMENT AWARDS STUDY. During the 1999-2000 Interim, the bureau shall study the awards provided to injured employees with permanent impairments caused by compensable work injuries, and the other benefits and services available to them. The study must identify the advantages and disadvantages of the current system and of any proposed alternate system, including a system of permanent partial disability awards. The study must include recommendations on whether changes are needed and the cost of any proposed changes. Before the 2001 legislative session, the bureau shall report the results of the study to an interim committee identified by the legislative council."

NDWC worked with Malcolm Dodge of Professional Risk Management of Oakland, California, to complete the study. To comply with the Legislative Assembly's requirement that the study include input from labor, employers and medical providers, Mr. Dodge convened a meeting at NDWC on July 11, 2000. The purpose of the meeting was to discuss the advantages and disadvantages of the current system in North Dakota and to propose possible changes to the system. Participating in the meeting were:

- Terry Curl (labor)
- Gary J. Dilla, M.D., (medical)
- Malcolm Dodge (outside consultant)
- Rep. Elliot Glasshelm (state representative)
- Duane Houdek (governor's office)
- Sen. Karen Krebsbach (state senator)
- Gary Nelson (labor)
- Greg Peterson, M.D. (medical)
- Jolene Rohde, R.N. (bureau)
- Marv Skar (employer)
- Dave Thiele, J.D. (bureau)
- Dave Ystebo (employer)

Panel participants were provided overviews of North Dakota's permanent partial impairment system and comparative data from other states. Panel members focused primarily on three aspects of North Dakota's current PPI system: (1) awards for amputees, (2) awards for loss of an eye, and (3) the 16% whole body impairment threshold. At page 8 of the study report, panel comments and concerns are summarized as follows:

- A range of opinion existed as to whether the threshold should be eliminated, reduced or maintained as is.
- A reduction in the threshold to 10% or 11% seemed to have the support of most participants.
- A reduction in the threshold to less than 6% seemed unreasonable to most panel participants.
- Some panel participants felt that awarding PPI benefits in the 6%-9% or 6%-10% range would be "nice to do" but did not have great support.

- Consideration should be given to devising a separate schedule to pay for extremity amputations and the loss of an eye.
- If the threshold is lowered to 11%, it may be appropriate to award PPI benefits to those with a 10% award if they have a spine injury with radiculopathy.
- Some consideration should be given to making sure that more treating physicians are familiar with how to use the *AMA Guides*.
- In providing alternatives to the current system, the study should offer suggestions on which injured workers may be eligible for "new" benefits.
- A clear understanding needs to exist about the difference between impairment and disability (the current PPI system compensates for the former, while ongoing entitlement to a disability benefit is addressed in North Dakota through other programs).
- Any revisions to the current system should be unambiguous.
- Data that pre-dates the 16% threshold will need to be used to project the fiscal impact of any systems alternatives as the bureau does not have data for impairments below 16% since the advent of the threshold.

The ultimate recommendations of the study are set forth on page 23. The recommendations were as follows:

1. Reduce the PPI threshold either to 11% or 10%.
2. If an 11% threshold is selected, consider including those claimants who sustain spinal impairments of 10% who also have radiculopathy.
3. Establish statutes or potential administrative rules to effectively manage the potential influx of claimants who do not otherwise qualify for impairment benefits under the existing law. ...
4. Require the bureau to propose a schedule to the Legislative Assembly that addresses impairment benefits for amputees and those with the loss of sight in one eye. The schedule should provide that those receiving impairment benefits according to the schedule will not receive a lesser number of benefit weeks than what they may have under the old law (1995 and prior). ...

4. The Bill and Amendments Follow Study Recommendations.

Section 1 of the bill, at pages two and three, adopts the recently published fifth edition of the *AMA Guides*. This action is in keeping with NDWC's conclusion that it should keep abreast of the latest medical advances and rating methodology by using the most current version of the *AMA Guides*. To assess the likely impact of adopting the 5th edition, NDWC analyzed over 300 impairment ratings that were made under the 4th edition and re-calculated the same awards under the fifth edition. This information was provided to NDWC's actuary and incorporated into the fiscal information that accompanies my written testimony.

Section 1 of the bill also restores impairment ratings for amputations and loss of an eye to the number of weeks awarded before the PPI law was amended in 1995.

Section 2 of the bill contains an effective date provision under which the law will become effective for PPI evaluations conducted after July 31, 2001.

The proposed amendments to the bill lower the threshold from the current 16% to the 11% recommended in the study. The number of weeks awarded for impairments between 11 and 15 percent are taken from the examples listed in exhibit 7 of the study. The amounts that would be awarded for those impairments are as follows:

<u>Percent Impairment</u>	<u>Weeks</u>	<u>Monetary Award</u>
11	5	\$755
12	6	\$906
13	7	\$1,057
14	8	\$1,208
15	9	\$1,510

Incremental increases are altered for ratings between 16 percent and 29 percent. Ratings higher than 30 percent are not affected by the proposed amendments.

5. AMA Guides Examples of 11 to 15% Ratings.

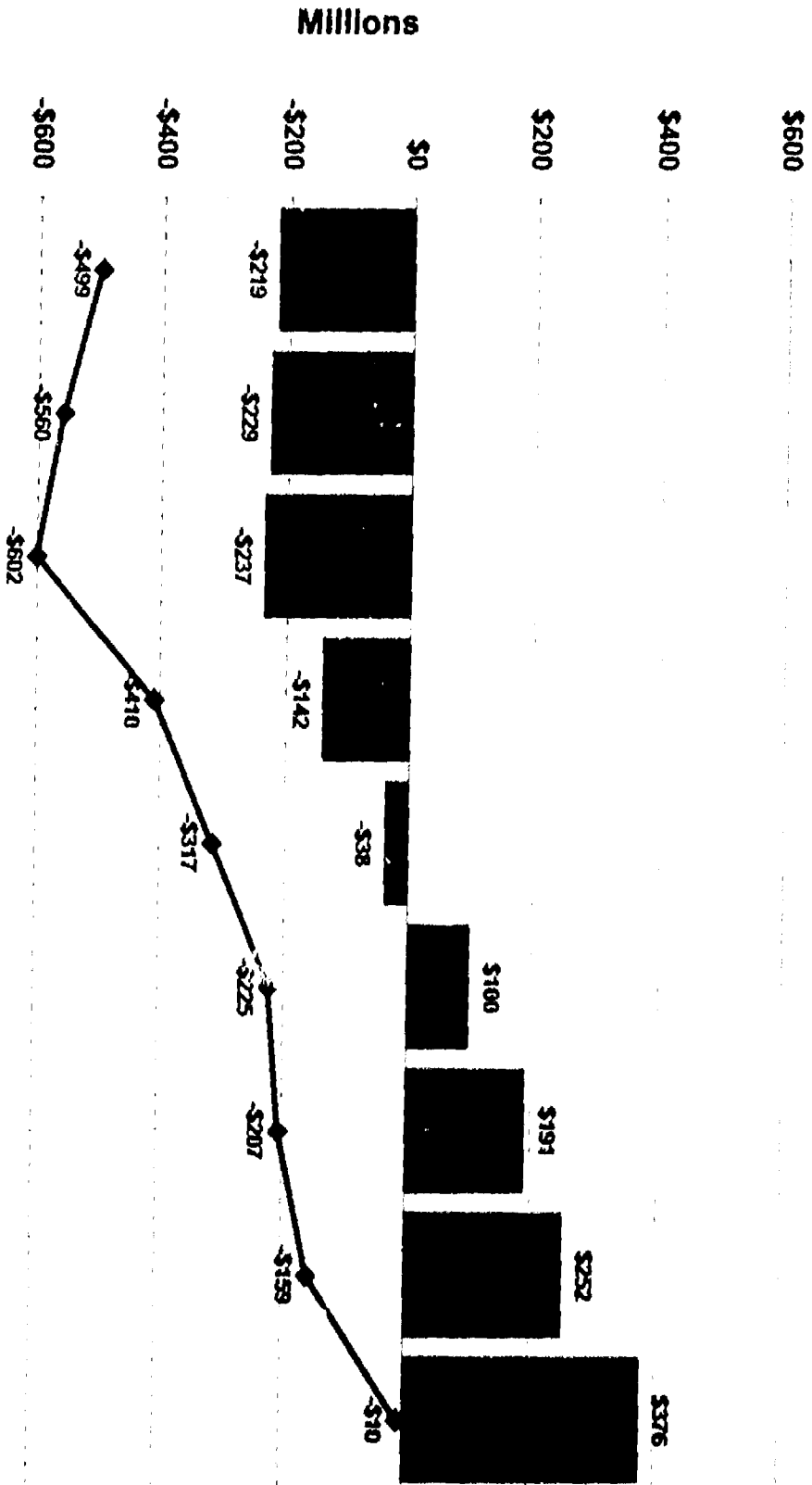
Attached to my written testimony are examples from the *AMA Guides* (5th ed.) which may be helpful in assessing the type of injuries that may be brought within the proposed reduction in the threshold from 16% to 11%:

6. Conclusion.

The 1999 Legislative Assembly directed a study of North Dakota's PPI laws. The study was a cooperative effort in which input was received from employees, employers, the medical community and outside consultants. House Bill No. 1161 follows the recommendations of the study. The bill and proposed amendments represent the type of prudent benefit increase NDWC has included in its three-part strategy for allocating future improvements in fund status.

This concludes my testimony on House Bill No. 1161. I respectfully request this committee's favorable recommendation on this bill and proposed amendments and I will be happy to respond to any questions you may have at this time. I will also be available for follow up questions if the testimony of other witnesses prompts additional questions.

NDWC Fund Equity w/Discounted Reserve Adjustment Liability



	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Accumulated Fund Surplus	-\$274	-\$240	-\$228	-\$134	-\$87	\$1	\$27	\$44	\$71
Unallocated Capital Gains/Losses	\$5	\$11	-\$9	\$12	\$14	\$17	\$48	\$47	\$95
Discounted Reserve Adjustment Liability**	\$0	\$0	\$0	\$0	-\$38	\$82	\$175	\$340	\$230
Total Unallocated Fund Equity w/Discounted Reserve Adjustment Liability**	-\$279	-\$229	-\$237	-\$142	-\$38	\$100	\$191	\$252	\$376
Claims Liability Booked Discount	\$290	\$331	\$365	\$288	\$279	\$225	\$298	\$411	\$296
Total Unallocated Fund Equity w/Discounted Reserve Adjustment Liability (undiscounted)	-\$469	-\$560	-\$602	-\$410	-\$317	-\$225	-\$207	-\$159	-\$10

*Fund Equity position reflects NDWC's current practice of discounting claims liabilities at 6%.

**Fund Equity position restated assuming NDWC booked claims liabilities on an undiscounted basis.

NORTH DAKOTA WORKERS COMPENSATION
2001 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Permanent Partial Impairment (w/Amendment)

BILL NO: HB 1161

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, 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.

This bill will introduce PPI scheduled benefits for some specific injury types and adopt the 5th edition of the AMA "Guides to Evaluation of Permanent Impairment".

FISCAL IMPACT: NDWC is proposing to adopt the 5th edition of the AMA "Guidelines" to reflect up-to-date medical information when evaluating disability ratings. The introduction of scheduled benefits is being proposed in response to recommendations made as part of the PPI study completed by independent claims consultants earlier this year.

Based on a review of data compiled by NDWC, we believe that the legislation, in its original form, will increase rate levels by 0.5% to 1.0%.

We believe that the impact of the change on discounted reserve levels will range between \$2.5 million and \$3.5 million.

Amendment: The amendment decreases the benefit threshold from 16% to 11% (the minimum impairment rating that will generate a PPI award). Benefit levels will increase for claimants with impairments ratings between 11% and 30%.

Fiscal Impact of Amendment: We believe that the amendment will generate a rate level need approximately 0.5% higher than that of the bill in its original form. In addition, the amendment will increase discounted reserve levels by an additional \$2.5 million to \$3.5 million.

DATE: January 26, 2001

**House Bill No. 1153, 1161, 1162 and 1260
Engrossed House Bill No. 1419, and 1469
Re-engrossed House Bill No. 1281**

**Fifty-Seventh Legislative Assembly
Before the Senate Industry, Business and Labor Committee
March 5, 2001
Testimony Regarding Workers Compensation Legislation**

Good morning Chairman Mutch, members of the Senate Industry, Business, and Labor Committee:

My name is Bob Indvik, and I am the Vice-Chairman of the North Dakota Workers Compensation Board of Directors. I am also the Chairman of the Board's Legislative Committee. I am here this morning to testify regarding the Board's position on several pieces of legislation that will affect the state's workers' compensation system.

In the interest of time, I will provide you with a brief description of the bills you will be hearing this morning and tell you about the recommendations the Board made regarding each of the bills.

The first is House Bill No. 1153, which the Board supports. House Bill No. 1153 does a variety of things. It redefines "fee schedule". It prohibits an employer from requiring an employee to use personal leave during periods of work-related disability. It also allows NDWC to establish incentives for employers who hire previously injured workers in physically appropriate jobs. And it makes a claimant's social security number private and requires an employer to limit the people who have access to its employees' claim files.

The second is House Bill No. 1161. It would increase the awards given for Permanent Partial Impairments. This bill is a result of an independent PPI study that was mandated by the 56th Legislative Assembly. The Board agrees with the results of the study and supports the bill and its proposed amendment. House Bill No. 1161 would increase awards given for certain amputations and the loss of one eye. It would also adopt the 5th Edition of the AMA Guidelines. The proposed amendment to the bill would reduce the PPI award threshold from 16% to 11% as recommended by the study.

House Bill No. 1162 is also supported by the Board. It changes the supplementary benefit structure to provide for supplementary benefits to be paid to all death benefit recipients or to all permanently and totally disabled workers who have been receiving benefits for an extended period of time.

House Bill No. 1260 would allow an employer with a deductible policy to keep 100% of the recovery in a third-party action if an injured worker and the Bureau chooses not to pursue the third-party for recovery of damages. This bill relates to a small number of employers, and it will not have an impact on rates or reserve levels. The Board supports House Bill No. 1260.

Re-engrossed House Bill No. 1281 would allow the Board to set the workers' compensation budget on an annual basis, and requires NDWC to report to the Legislative Assembly on how its funds were spent. The Board supports Re-engrossed House Bill No. 1281. It is a recommendation from our most recent performance evaluation. The Board believes the authority to set the workers' compensation budget annually would allow NDWC to keep up with industry trends, and to allow most contracted services to be brought in-house and reduce cost.

The Board supports Engrossed House Bill No. 1419. It allocates \$150,000 to the Legislative Council to contract with an industry expert to conduct a study of the effects of opening the state's workers' compensation system to competition. The Board has not taken a position on whether or not competition is appropriate for North Dakota. A study of the pros and cons of competition would be beneficial for the Board and ultimately, will help the Legislative Assembly make an informed decision on this subject.

Finally, the Board has taken a neutral position on Engrossed House Bill No. 1469. It creates exemptions for certain custom agriculture operations. The Board originally opposed this bill when it was introduced, but would have supported a study on the issue.

This concludes my testimony regarding the Board's position on the several pieces of legislation that you have before you this morning. I would encourage you to give favorable consideration to House Bill Numbers: 1153, 1161 with the proposed amendments, 1162, 1260, 1281, and 1419.

NDWC staff will provide you with more details about each of the bills and its effect on the North Dakota Workers Compensation system.

House Bill No. 1161

Fifty-seventh Legislative Assembly
Before the Senate Industry, Business and Labor Committee
March 5, 2001

Testimony of Brent J. Edison
North Dakota Workers Compensation

Mr. Chairman, Members of the Committee:

My name is Brent Edison. I am the Vice President of Legal and Special Investigations for North Dakota Workers Compensation (NDWC) and I am here to testify in support of 2001 House Bill No. 1161. I am also here to present the committee with proposed amendments to the bill and to testify in support of the proposed amendments. The Workers Compensation Board of Directors approved of both the original bill and the proposed amendments. The original bill, without the proposed amendments, passed the House of Representatives by a vote of 95-0.

In 1999, the Legislative Assembly passed House Bill No. 1422, which required that a study be conducted of North Dakota's permanent partial impairment (PPI) awards system. This bill and the proposed amendments follow the recommendations of the study mandated by 1999 House Bill No. 1422. Copies of the report from the study are included with my written testimony.

1. History of Permanent Impairment Awards.

The American Medical Association's, *Guides to the Evaluation of Permanent Impairment* define "impairment" or "permanent impairment" as "a loss, loss of use, or derangement of any body part, organ system, or organ function." "Impairment" is not the same thing as "disability" which the *AMA Guides* define as "an alteration of an individual's capacity to meet personal, social, or occupational demands or statutory or regulatory requirements because of an impairment." The workers compensation system

in North Dakota provides for payment of both disability benefits and permanent partial impairment or "PPI" benefits.

Prior to 1989, an injured worker with a 10% permanent partial impairment was entitled to an impairment award computed at the rate of \$60 per week for 50 weeks, paid in a lump sum of \$3,000. In 1989, the \$60 weekly benefit was increased to 33 1/3% of the statewide average weekly wage (SAWW). As a result, the award for a 10% permanent partial impairment increased from \$3,000 to \$5,211.50 (50 weeks x 33 1/3% of SAWW of \$313) in 1989.

The growth in PPI awards following the 1989 legislation was one factor that contributed to the financial crisis that faced the workers compensation fund in the 1990's. The 1995 Legislative Assembly responded to the crisis by placing certain restrictions on workers compensation benefits. One of the bills enacted in 1995 completely overhauled the system for awarding PPI benefits. The 1995 law provided that no award would be paid for impairments lower than the PPI "threshold" of 16%, reducing eligible PPI awards by 83%.

The tough choices made by the 1995 Legislative Assembly worked to restore financial stability to the workers compensation fund. After many years of operating with an unfunded liability, the fund is now solvent, ending fiscal year 2000 with a total unallocated fund equity, including a contingency reserve, of \$376 million. That amounts to a *half billion dollar* improvement over a ten year period.

Improvements in the financial health of the fund have prompted calls to relax some of the measures that were taken to restore fiscal stability back in 1995. NDWC's response to those demands has been to urge caution, lest the fund return to the days of unfunded liability and double digit premium rate increases. Additional caution is necessary because the fund equity figure of \$376 million assumes a rate of return on NDWC assets of 6% per year. NDWC's goal is to meet private industry standards by showing future liabilities on an undiscounted basis.

The 1995 PPI law was referred to the voters who affirmed the new law on June 11, 1996. Under Article III, section 8 of the North Dakota Constitution, a law approved upon referral cannot be repealed or amended except by two-thirds vote in both legislative chambers. Thus, House Bill No. 1161 will require a two-thirds vote in both the House and the Senate to be enacted.

On March 2, 1999, NDWC provided this committee with NDWC's strategy to allocate future improvements in the fund's financial condition to three areas:

1. Continue to build up the fund's financial reserves.
2. Grant further premium rate decreases to employers.
3. Propose legislation containing targeted increases in benefits to injured workers.

Since that time, the fund's financial reserves have continued to grow and premium rates have continued to decrease. As a result, NDWC is now in a position to pursue the third-prong of its strategy by proposing this bill as a prudent increase in the value of PPI awards that will provide additional benefits to injured workers without jeopardizing the future financial health of the fund.

2. Permanent Impairment Awards Study.

Section 3 of 1999 House Bill No. 1422 provided as follows:

"PERMANENT IMPAIRMENT AWARDS STUDY. During the 1999-2000 Interim, the bureau shall study the awards provided to injured employees with permanent impairments caused by compensable work injuries, and the other benefits and services available to them. The study must identify the advantages and disadvantages of the current system and of any proposed alternate system, including a system of permanent partial disability awards. The study must include recommendations on whether changes are needed and the cost of any proposed changes. Before the 2001 legislative session, the bureau shall report the results of the study to an interim committee identified by the legislative council."

NDWC worked with Malcolm Dodge of Professional Risk Management of Oakland, California, to complete the study. In order to comply with the Legislative Assembly's requirement that the study include input from labor, employers and medical providers, Mr. Dodge convened a meeting at NDWC on July 11, 2000. The purpose of the meeting was to discuss the advantages and disadvantages of the current system in North Dakota and to propose possible changes to the system. Participants in the meeting were the following:

- Terry Curl (labor)
- Gary J. Dilla, M.D., (medical)
- Malcolm Dodge (outside consultant)
- Rep. Elliot Glassheim (state representative)
- Duane Houdek (governor's office)
- Sen. Karen Krebsbach (state senator)
- Gary Nelson (labor)
- Greg Peterson, M.D. (medical)
- Jolene Rohde, R.N. (bureau)
- Marv Skar (employer)
- Dave Thiele, J.D. (bureau)
- Dave Ystebo (employer)

Panel participants were provided overviews of North Dakota's permanent partial impairment system and comparative data from other states. Panel members focused primarily on three aspects of North Dakota's current PPI system: (1) awards for amputees, (2) awards for loss of an eye, and (3) the 16% whole body impairment. At page 8 of the study report, panel comments and concerns are summarized as follows:

- A range of opinion existed as to whether the threshold should be eliminated, reduced or maintained as is.
- A reduction in the threshold to 10% or 11% seemed to have the support of most participants.
- A reduction in the threshold to less than 6% seemed unreasonable to most panel participants.
- Some panel participants felt that awarding PPI benefits in the 6%-9% or 6%-10% range would be "nice to do" but did not have great support.
- Consideration should be given to devising a separate schedule to pay for extremity amputations and the loss of an eye.

- If the threshold is lowered to 11%, it may be appropriate to award PPI benefits to those with a 10% award if they have a spine injury with radiculopathy.
- Some consideration should be given to making sure that more treating physicians are familiar with how to use the *AMA Guides*.
- In providing alternatives to the current system, the study should offer suggestions on which injured workers may be eligible for "new" benefits.
- A clear understanding needs to exist about the difference between impairment and disability (the current PPI system compensates for the former, while ongoing entitlement to a disability benefit is addressed in North Dakota through other programs).
- Any revisions to the current system should be unambiguous.
- Data that pre-dates the 16% threshold will need to be used to project the fiscal impact of any systems alternatives as the bureau does not have data for impairments below 16% since the advent of the threshold.

The ultimate recommendations of the study are set forth on page 23. The recommendations were as follows:

1. Reduce the PPI threshold either to 11% or 10%.
2. If an 11% threshold is selected, consider including those claimants who sustain spinal impairments of 10% who also have radiculopathy.
3. Establish statutes or potential administrative rules to effectively manage the potential influx of claimants who do not otherwise qualify for impairment benefits under the existing law. ...
4. Require the bureau to propose a schedule to the Legislative Assembly that addresses impairment benefits for amputees and those with the loss of sight in one eye. The schedule should provide that those receiving impairment benefits according to the schedule will not receive a lesser number of benefit weeks than what they may have under the old law (1995 and prior). ...

4. The Bill and Amendments Follows Study Recommendations.

Section 1 of the bill, at pages two and three, adopts the recently published fifth edition of the *AMA Guides*. This action is in keeping with NDWC's conclusion that it should keep abreast of the latest medical advances and rating methodology by using the most current version of the *AMA Guides*. To assess the likely impact of adopting the 5th edition, NDWC analyzed over 300 impairment ratings that were made under the 4th edition and re-calculated the same awards under the fifth edition. This information was provided to NDWC's actuary and incorporated into the fiscal information that accompanies my written testimony.

Section 1 of the bill also restores impairment ratings for amputations and loss of an eye to the number of weeks awarded before the PPI law was amended in 1995.

Section 2 of the bill contains an effective date provision under which the law will become effective for PPI evaluations conducted after July 31, 2001.

The proposed amendments to the bill lower the threshold from the current 16% to the 11% recommended in the study. The number of weeks awarded for impairments between 11 and 15 percent are taken from the examples listed in exhibit 7 of the study. The amounts that would be awarded for those impairments are as follows:

<u>Percent Impairment</u>	<u>Weeks</u>	<u>Monetary Award</u>
11	5	\$755
12	6	\$906
13	7	\$1,057
14	8	\$1,208
15	9	\$1,510

Incremental increases are altered for ratings between 16 percent and 29 percent. Ratings higher than 30 percent are not affected by the proposed amendments.

5. AMA Guides Examples of 11 to 15% Ratings.

Attached to my written testimony are examples from the *AMA Guides* (5th ed.) which may be helpful in assessing the type of injuries that may be brought within the proposed reduction in the threshold from 16% to 11%:

6. Conclusion.

The 1999 Legislative Assembly directed a study of North Dakota's PPI laws. The study was a cooperative effort in which input was received from employees, employers, the medical community and outside consultants. House Bill No. 1161 follows the recommendations of the study. The bill and proposed amendments represent the type of prudent benefit increase NDWC has included in its three-part strategy for allocating future improvements in fund status.

This concludes my testimony on House Bill No. 1161. I respectfully request this committee's favorable recommendation on this bill and the proposed amendments and I will be happy to respond to any questions you may have at this time. I will also be available for follow up questions if the testimony of other witnesses prompts additional questions.

3-5-01 STATEMENT BY CHUCK PETERSON, REPRESENTING GNDA,
REGARDING HB 1161 WORKER'S COMPENSATION LEGISLATION.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee. I am Chuck Peterson, a member of GNDA, and a North Dakota businessman. Thank you for the opportunity to provide testimony in support of HB 1161.

The Greater North Dakota Association is the voice of business and the principle advocate of positive change in North Dakota. As a member of GNDA we represent over 1000 business and professional organizations from all areas of North Dakota. GNDA is governed by a 25 member Board of Directors elected by our membership.

I also speak for the Associated General Contractors, the North Dakota Petroleum Council, the North Dakota Retail Petroleum Marketers Association, the North Dakota Motor Carriers Association, the Automobile Dealers and Implement Dealers Association, North Dakota Grocers Association, the Bismarck-Mandan Chamber of Commerce, and the North Dakota Hospitality Association.

We have reviewed the changes contained in HB 1161. Our understanding of this legislation is that it will grant increased permanent impairment awards to employees injured in the course of their employment. We understand that the increase is for certain scheduled injuries. We favor this legislation and encourage passage.

Testimony

Before the Senate Industry, Business and Labor Committee

Urging a "Do Pass" Recommendation

Gary L. Nelson, Business Manager
Ironworkers Local 793

Mr. Chairman, Members of the Committee.

My name is Gary Nelson and I am Business Manager for Ironworkers Local 793. Our jurisdiction is the Entire State of North Dakota and the bordering counties of Minnesota. I am here today in support of House Bill # 1161.

At the last Legislative Session, both chambers mandated a study of the Permanent Impairment Awards. I believe this study cost approximately \$150,000 and the consultant recommended that the amputation fees revert back to the 1995 fee schedule or better.

They also recommended that the whole body impairment be changed from 16% to 10% or 11%. This change would cost the fund about 2 1/2 to 3 1/2 million dollars.

At the 1995 session, both chambers voted to change the whole body impairment from 0% to 16%. I believe it is time to give something back to the injured workers. A couple of weeks ago, the newspaper stated that the Bureau was 176 million in the black, so there is funds available.

By going from 16% to 11% whole body impairment you would still eliminate 65% of all claims. At 16% you eliminate 82% of all claims.

The Workers Compensation Bureau submitted HB 1161 to take care of the amputation fees and then submitted an amendment to lower the 16% whole body impairment to 11%. The House IB&L decided not to include the amendment to lower the whole body from 16% to 11% and then it passed the House 95 to 0. I would hope that the Senate IB & L would adopt the amendment, especially with the small fiscal note.

I urge you to adopt the amendment to lower the 16% whole body to 11% whole body as recommended by the consultant and by the Workers Compensation Board Members and recommend a Do Pass on HB 1161 as amended.

Exhibit 4
NORTH DAKOTA
PERMANENT PARTIAL IMPAIRMENT DISTRIBUTION
(PRIOR TO 1995)

Percentage Impairment	Percentage of All Impairments	Cumulative Percentage
1	5	5
2	5	10
3	5	15
4	5	20
5	25	45
6	2.5	47.5
7	2.5	50
8	2.5	52.5
9	2.5	55
10	10	65
11	8.5	73.5
12	1.5	75
13	1	76
14	1	77
15	5	82
16	1	83
17	1	84
18	1	85
19	1	86
20	6	92
21	.5	92.5
22	.5	93
23	.5	93.5
24	.5	94
25	2	96
26-42	3	99
43-100	1	100

Recommendations

We have the following recommendations to modify North Dakota's PPI benefit structure:

1. Reduce the PPI threshold either to 11% or 10%.
2. If an 11% threshold is selected, consider including those claimants who sustain spinal impairments of 10% who also have radiculopathy.
3. Establish statutes or administrative rules to effectively manage the potential influx of claimants who do not otherwise qualify for impairment benefits under the existing law. Language has been proposed in the previous section to address this matter.
4. Require the bureau to propose a schedule to the Legislative Assembly that addresses impairment benefits for amputees and those with the loss of sight in one eye. The schedule should provide that those receiving impairment benefits according to the schedule will not receive a lesser number of benefit weeks than what they may have under the old law (1995 and prior). We do not recommend making any differentiation between the dominant and non-dominant upper extremity, as may have been the case under the old law. The schedule should address digit amputations in the same manner as Section 65-05-12.2 (11), N.D.C.C. currently provides. The schedule should be based on whole body impairments.

Fiscal Impact

We have projected a fiscal impact for each of the recommendations. For ease of review, we have restated each of the recommendations from the previous section and italicized the fiscal impact associated with each recommendation.

1. Reduce the PPI threshold either to 11% or 10%. *(If the threshold is reduced to 11%, then the rate effect is estimated at 0.5% to 1%. The discounted reserve impact will be about \$2.5 million to \$3.5 million. See Exhibit Nine for the calculation used to arrive at these estimates. If the threshold is reduced to 10%, then the rate effect is estimated to be 0.5% to 1.5%. The discounted reserve impact will be about \$3.5 million to \$4.5 million. See Exhibit Ten for the calculation used to arrive at these estimates.)*
2. If an 11% threshold is selected, consider including those claimants who sustain spinal impairments of 10% who also have radiculopathy. *(The rate and reserve impact would fall somewhere in between the estimates given above in Recommendation #1.)*
3. Establish statutes or administrative rules to effectively manage the potential influx of claimants who do not otherwise qualify for impairment benefits under the existing law. Language has been proposed in a previous section to address this matter. *(No financial impact.)*
4. Require the bureau to propose a schedule to the Legislative Assembly that addresses impairment benefits for amputees and those with the loss of sight in one eye. The schedule should provide that those receiving impairment benefits according to the schedule will not receive a lesser number of benefit weeks than what they may have under the old law (1995 and prior). We do not recommend making any differentiation between the dominant and non-dominant upper extremity, as may have been the case under the old law. The schedule should address digit amputations in the same manner as Section 65-05-12.2 (11), N.D.C.C. currently provides. The schedule should be based on whole body impairments. *(Financial impact to be estimated once bureau develops schedule.)*

Note.

Chapter 624, S.L. 1995, which repealed this section, was referred and was voted on in the June, 1996, statewide election. Chapter 624, S.L. 1995, was approved by the voters. See Chapter 566, S.L. 1997.

Section 8 of chapter 624, S.L. 1995 provides: "This Act is effective on August 1, 1995, for all permanent impairment awards determined after July 31, 1995, irrespective of injury date."

65-05-12.1. Permanent Impairment. Repealed by S.L. 1995, ch. 624, § 2.

Note.

Chapter 624, S.L. 1995, which repealed this section, was referred and was voted on in the June, 1996, statewide election. Chapter 624, S.L. 1995, was approved by the voters. See Chapter 566, S.L. 1997.

Section 8 of chapter 624, S.L. 1995 provides: "This Act is effective on August 1, 1995, for all permanent impairment awards determined after July 31, 1995, irrespective of injury date."

65-05-12.2. Permanent Impairment. — Compensation. — Time paid. When a compensable injury causes permanent impairment, the bureau shall determine a permanent impairment award on the following terms:

1. If the compensable injury causes permanent impairment and the permanent impairment award payable by the bureau is at least two thousand dollars, the injured employee may defer payment of the permanent impairment award for a period of time not to exceed the date the employee reaches age sixty-five. A permanent impairment award payable by the bureau under this subsection must be paid to the employee in a lump sum that consists of the amount of the award plus any interest that has accrued at the actuarial discount rate in use by the bureau. The actuarial discount rate applied to the award is the average actuarial discount rate in effect for the period of deferment of the employee's award. The bureau shall adopt rules implementing any necessary procedures for award payments made under this subsection.
2. The bureau shall calculate the amount of the award by multiplying thirty-three and one-third percent of the average weekly wage in this state on the date of the impairment evaluation, rounded to the next highest dollar, by the number of weeks specified in subsection 10.
3. The bureau shall notify the employee by certified mail, to the last-known address of the employee, when that employee becomes potentially eligible for a permanent impairment award. After the bureau has notified the employee, the employee shall file, within one hundred eighty days from the date the employee was notified, a written request for an evaluation for permanent impairment. Failure to file the written request within the one hundred eighty-day period precludes an award under this section.
4. An injured employee is entitled to compensation for permanent impairment under this section only for those findings of impairment that are permanent and which were caused by the compensable injury. The bureau may not issue an impairment award for impairment findings due to unrelated, noncompensable, or preexisting conditions, even if these conditions were made symptomatic by the compensable work injury, and regardless of whether section 65-05-15 applies to the claim.
5. An injured employee is eligible for an evaluation of permanent impairment only when all conditions caused by the compensable

injury have reached maximum medical improvement. The injured employee's doctor shall report to the bureau the date an employee has reached maximum medical improvement and any evidence of impairment of function the injured employee has after that date. If the report states that the employee is potentially eligible for a permanent impairment award, the bureau shall provide notice to the employee as provided by subsection 3. If the injured employee files a timely written request under subsection 3, the bureau shall schedule an impairment evaluation by a doctor qualified to evaluate the impairment.

6. A doctor evaluating permanent impairment shall include a clinical report in sufficient detail to support the percentage rating assigned. The bureau shall adopt administrative rules governing the evaluation of permanent impairment. These rules shall incorporate principles and practices of the American Medical Association's Guides to the Evaluation of Permanent Impairment modified to be consistent with North Dakota law, to resolve uncertainties in practice and interpretation, and to address areas not sufficiently covered by the guides. Until rules adopted under this subsection become effective, impairments must be evaluated under the fourth edition, third printing, of the guides.
7. The bureau shall deduct, on a whole body impairment basis, from an award for impairment under this section, any previous impairment award for that same member or body part under the workers' compensation laws of any jurisdiction.
8. An injured employee is not entitled to a permanent impairment award due solely to pain.
9. If an employee dies, the right to any compensation payable pursuant to an impairment evaluation previously requested by the employee under subsection 3, which remains unpaid on the date of the employee's death, survives and passes to the employee's dependent spouse, minor children, parents, or estate, in that order. If the employee dies, only those findings of impairment which are objectively verifiable such as values for surgical procedures and amputations may be considered in a rating for impairment. Impairment findings not supported by objectively verifiable evidence may not be included in a rating for impairment. The deceased employee's dependents or representatives shall request an impairment award under this subsection within one year from the date of death of the employee.
10. If the injury causes permanent impairment, the award must be determined based on the percentage of whole body impairment in accordance with the following schedule:

65-05-12. Permanent Impairment — Compensation — Time paid. The injured employee's doctor shall report to the bureau any rating of any impairment of function as the result of the injury on the date of maximum medical improvement, except for total losses claimed under section 65-05-13. Any rating of the percentage of functional impairment should be in accordance with the standards for the evaluation of permanent impairment as published in the most recent edition of the American medical association's "Guides to the Evaluation of Permanent Impairment" unless proven otherwise by clear and convincing medical evidence. The doctor's report must include a clinical report in sufficient detail to support the percentage ratings assigned. Any subsequent award for impairment must be made minus any previous award given on any earlier claim or the same claim for that same member or body part. If the injury causes permanent impairment, other than scheduled injuries, as elsewhere provided for in this chapter, the percentage which such impairment bears to total impairment must be determined, and the fund shall pay to the impaired employee a lump sum, calculated by multiplying thirty-three and one-third percent of the average weekly wage in this state rounded to the next highest dollar, on the date the impairment is determined, by the following number of weeks, depending upon the percentage of impairment:

For a one percent impairment	5 weeks.
For a ten percent impairment	50 weeks.
For a twenty percent impairment	100 weeks.
For a thirty percent impairment	150 weeks.
For a forty percent impairment	200 weeks.

For fifty percent impairment	260 weeks
For fifty-one percent impairment	280 weeks
For fifty-two percent impairment	300 weeks
For fifty-three percent impairment	320 weeks
For fifty-four percent impairment	340 weeks
For fifty-five percent impairment	360 weeks
For fifty-six percent impairment	380 weeks
For fifty-seven percent impairment	400 weeks
For fifty-eight percent impairment	420 weeks
For fifty-nine percent impairment	440 weeks
For sixty percent impairment	465 weeks
For sixty-one percent impairment	490 weeks
For sixty-two percent impairment	515 weeks
For sixty-three percent impairment	540 weeks
For sixty-four percent impairment	565 weeks
For sixty-five percent impairment	590 weeks
For sixty-six percent impairment	615 weeks
For sixty-seven percent impairment	640 weeks
For sixty-eight percent impairment	665 weeks
For sixty-nine percent impairment	690 weeks
For seventy percent impairment	715 weeks
For seventy-one percent impairment	740 weeks
For seventy-two percent impairment	765 weeks
For seventy-three percent impairment	790 weeks
For seventy-four percent impairment	815 weeks
For seventy-five percent impairment	840 weeks
For seventy-six percent impairment	865 weeks
For seventy-seven percent impairment	890 weeks
For seventy-eight percent impairment	915 weeks
For seventy-nine percent impairment	940 weeks
For eighty percent impairment	965 weeks
For eighty-one percent impairment	990 weeks

CLAIMS AND COMPENSATION

65-05-12.2

- | | |
|-------------------------------------|------------|
| For eighty-two percent impairment | 1015 weeks |
| For eighty-three percent impairment | 1040 weeks |
| For eighty-four percent impairment | 1065 weeks |
| For eighty-five percent impairment | 1090 weeks |
| For eighty-six percent impairment | 1115 weeks |
| For eighty-seven percent impairment | 1140 weeks |
| For eighty-eight percent impairment | 1165 weeks |
| For eighty-nine percent impairment | 1190 weeks |
| For ninety percent impairment | 1215 weeks |
| For ninety-one percent impairment | 1240 weeks |
| For ninety-two percent impairment | 1265 weeks |
| For ninety-three percent impairment | 1290 weeks |
| For ninety-four percent impairment | 1320 weeks |
| For ninety-five percent impairment | 1350 weeks |
| For ninety-six percent impairment | 1380 weeks |
| For ninety-seven percent impairment | 1410 weeks |
| For ninety-eight percent impairment | 1440 weeks |
| For ninety-nine percent impairment | 1470 weeks |
| For one hundred percent impairment | 1500 weeks |
11. An amputation of a finger or toe at the level of the distal interphalangeal joint or proximal to that joint, or the thumb or the great toe at the interphalangeal joint or proximal to that joint, which is determined to result in a whole body impairment of less than sixteen percent is payable as a sixteen percent impairment.
 12. If there is a medical dispute regarding the percentage of an injured employee's permanent impairment, all relevant medical evidence must be submitted to an independent doctor who has not treated the employee and who has not been consulted by the bureau in relation to the injury upon which the impairment is based. The bureau shall establish lists of doctors who are qualified by their training, experience, and area of practice to rate permanent impairments caused by various types of injuries. The bureau shall define, by rule, the process by which the bureau and the injured employee choose an independent doctor or doctors to review a disputed permanent impairment evaluation or rating. The decision of the independent doctor or doctors chosen under this process is presumptive evidence of the degree of permanent impairment of the employee which can only be rebutted by clear and convincing evidence. This subsection does not impose liability on the bureau for an impairment award for a rating of impairment for a body part or condition the bureau has not determined to be compensable as a result of the injury. The employee bears the expense of witness fees of the independent doctor or doctors if the employee disputes the findings of the independent doctor or doctors.
 13. An attorney's fees are not payable unless there is a bona fide dispute as to the percentage of the employee's permanent impairment or unless there is a dispute as to the employee's eligibility for an award for permanent partial impairment. An attorney's fees payable in connection with a permanent impairment dispute may not exceed twenty percent of the additional amount awarded upon final resolution of the dispute, subject to the maximum fees established pursuant to section 65-02-08.
 14. An attorney may not seek or obtain from an employee through a contingent fee arrangement, or on a percentage basis, costs or fees payable in connection with the award or denial of compensation for

BILL #1161 or 65-05-12.2

PERMANENT IMPAIRMENT COMPENSATION AWARD

You shouldn't have to meet the 16% impairment every time.

1996-97 Back & Knee 18% 3rd/4th Edition

2001 Back 10% 4th Edition

Total compensation for the 2001 impairment is 0.

What happen if you have had PPI before that percentage is deduct from your new rate.

2001 back & bladder 45%

subtract the rating previous PPI 18%

Total Impairment rating 27%

Today the Workers Compensation Bureau also deducts the first 15% impairment From each award ,so the 27% rating is dropped to 12%. That's the new award-from 45% all the way down to 12%.

Illustration How Law Works.

1-20-01 shoulder injury	8%
8-20-01 knee injury	10%
2-27-02 neck injury	12%
3-15-01 back injury	15%
total	45%

They would receive no compensation benefits for all the injuries because they weren't able to get 16% whole body rating.

Permanent Impairment
Bill # 1161

1. Illustration:

96-97

Back & knee 18% on the 4th instead of 23% on 3rd
2001

Back alone 10% \$0.00

Under the present law we have to meet 16% impair to qualify.

2nd illustration

2001

Back and bladder no knee rating 40%

Back and knee 18%

you end up with 22%

back & knee 18%

back alone 10%

knee which isn't include 8%

rating to be deducted from whole should be 10% that deduct not 18%

3rd Illustration

1998

Back injury 10% \$0.00

1999

shoulder injury 8% \$0.00

2000

knee injury 6% \$0.00

2001

back fusion 15% \$0.00

total impair 39% \$0.00

4th Illustration

2002

3rd Back & bladder 50%

rating from previous injuries 39% \$0.00

which you never giving any comp.

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North Dakota Workers Compensation

**Interim Permanent Partial
Impairment Study**

September 11, 2000

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