

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2433

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2433

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2433

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 12, 2001.

Tape Number	Side A	Side B	Meter #
1	x		18.3 to 36.2
(Feb. 13/01) 3	x		26.6 to 29.7
Committee Clerk Signature <i>Nois & Piroz</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2433 relating to workers' compensation temporary total and permanent total disability.

SENATOR LINDA CHRISTENSON, District 18. In favor, this bill is beneficial to both the bureau and the worker. This bill would allow temporary total disability to become permanent after a period of seven years. Right now we have a continuing limbo, not being sure of where the cutoff period is or if there ever will be one. This gives certainty to the worker and eliminates red tape for the bureau.

DAVID KEMNITZ, NDAFL-CIO, in favor. Now workers in limbo, not able to work and not permanently disabled, when in doubt the system would be favored. Litigation would diminish in that it would be final after 7 years. The Bureau has 7 years to do something, if not able to do anything for them then they would be deemed permanently disabled after that time.

SENATOR KLEIN Why seven?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2433

Hearing Date February 12, 2001.

D KEMNITZ: Compromise number.

SEBALD VETTER, C.A.R.E., in favor. Seven years is time enough for workers comp to know whether claimant will be permanently disabled or not.

DAN FINNEMAN, injured worker, on his behalf, favors the bill. Shared frustration, pain, worker is put through. If individual is kicked off has to fight his way into the system. Would the 7 years start again?

JULIE LEER, NDWCB, against. Written testimony attached.

SENATOR KLEIN: You say the Board unanimously opposed this bill. Were all members present?

J LEER: The opposition was unanimous; if all present, I do not know.

CHUCK PETERSON, GNDA, in opposition. It might take some workers more than seven years to be sufficiently rehabilitated to go back to work and this bill would place them in a permanently disabled status.

Hearing closed.

Feb. 13/01 (Type 3-A-26.6 to 29.7) Committee reconvened. All members, except SENATOR ESPEGARD, present. Discussion held.

SENATOR KREBSBACH: With all the advances in technology and medicine it is getting more difficult to say whether someone will be permanently disabled.

SENATOR KLEIN: Move do not pass. SENATOR TOLLEFSON: Second.

Roll call vote: 4 yes; 2 no; 1 absent not voting. Carrier SENATOR TOLLEFSON.

FISCAL NOTE

Requested by Legislative Council
01/30/2001

Bill/Resolution No.: SB 2433

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 Total Disability

BILL NO: SB 2433

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 provides for employees with injuries resulting in temporary total disability to be deemed permanently totally disabled if the injured employee has not returned to work within seven years of the date of injury. The proposed bill would apply to injuries occurring after July 31, 2001.

FISCAL IMPACT:

Rate Level Impact: Not quantifiable. Rates are set to cover the expenses associated with the claims incurred during the policy year. To the extent the proposed bill serves to increase the number of claims resulting in long term disability, the increased system costs associated with long term disability would be reflected in

subsequent rate adjustments.

Reserve Level Impact: The proposed bill results in no reserve level impact as the bill is designed to apply prospectively to future claims.

DATE: January 30, 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:	ND Workers Compensation
Phone Number:	328-3856	Date Prepared:	01/31/2001

Date: 2/13/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2433

Senate Industry, Business and Labor Committee

- Subcommittee on _____
- or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken DRP

Motion Made By Sen Klein Seconded By Sen Tollefson

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

Total (Yes) 4 No 2

Absent 1

Floor Assignment Sen Tollefson

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 8:24 a.m.

Module No: SR-27-3270
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2433: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2433 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2433

Fifty-seventh
Legislative Assembly
of North Dakota

Senate Bill No. 2433

Before the Senate Industry, Business, and Labor Committee
North Dakota Workers Compensation Testimony
February 12, 2001

Mr. Chairman, Members of the Committee:

My name is Julie Leer. I am General Counsel for North Dakota Workers Compensation (NDWC) and I am here today to present opposition testimony to 2001 Senate Bill No. 2433. This bill was also introduced last session without success. The Workers Compensation Board of Directors unanimously opposes this bill.

NDWC's greatest concern about this Bill is that it would require us to "give up" on injured workers. Specifically, the Bill requires NDWC to automatically declare an injured worker to be permanently and totally disabled if the worker has been unable to return to work within seven years of the date of the injury. A declaration of permanent and total disability may allow an injured worker to be eligible to receive supplementary benefits under North Dakota Century Code section 65-05.2-01.

One of the criticisms of NDWC in the past was that it had not consistently reviewed claims in a timely manner to determine whether an injured worker is permanently and totally disabled. While that criticism was not undeserved, NDWC has since established a procedure to ensure that all claims are reviewed in a timely and thorough manner. A "cyclic review committee" conducts the reviews. This committee is charged with reviewing claims for permanent and total disability by assessing the likelihood of continued medical improvement for the worker, the likelihood of succeeding with vocational rehabilitation efforts considering the injured worker's physical capabilities, transferable skills, and educational background, and the length of time the injured worker has been receiving wage-loss benefits. If the committee determines an injured worker is unlikely to be successful in further medical or vocational rehabilitation, the committee declares the injured worker permanently and totally disabled.

This bill would make the cyclic review committee unnecessary by requiring the Bureau to "deem" an injured worker incapable of rehabilitation simply due to the length of time that worker has been off work. It does not allow NDWC to assess the *individual* or that *individual's* needs. For example, if an injured worker suffers a catastrophic injury, the injured worker's medical treatment may prevent that injured worker from pursuing a course of vocational rehabilitation for a few years. If NDWC were to determine that this catastrophically injured worker is entitled to a four-year training program, it would be likely that the presumption of permanent total disability would be triggered before the

worker's training program would be completed. NDWC needs to assess each individual worker's situation rather than pigeon-hole all injured workers as incapable of working or of rehabilitation simply because seven years have passed.

While it is an unfortunate fact that some people suffer permanent and total disability as the result of work-related injuries, the Bureau asks that you not increase that number by creating a presumption of permanent total disability based exclusively on the time an injured worker is off the job. Bear in mind that for an individual who is struggling to overcome a long-term serious injury, receiving notice that the individual is "permanently and totally disabled" could serve to crush whatever hope of improving that person may have had. Determining whether an injured worker is permanently and totally disabled should be done by reviewing all information available, not just by an automatic process imposed by statute which allows absolutely no consideration of the injured worker's circumstances.

NDWC requests that you give this bill a "Do Not Pass" recommendation. Thank you for your consideration. I'll attempt to answer your questions at this time.

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

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Reserve Level Impact: The proposed bill results in no reserve level impact as the bill is designed to apply prospectively to future claims.

DATE: January 30, 2001

2-12-2001 STATEMENT BY CHUCK PETERSON, REPRESENTING
GNDA, REGARDING SB 2433 WORKER COMPENSATION
LEGISLATION.

Chairman Mutch and members of the Senate Industry, Businesses 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 regarding SB 2433.

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, and the Automobile Dealers and Implement Dealers Association.

We believe the decision concerning when the worker is permanently totally disabled should be left to the Workers Compensation Bureau. The rehabilitation process can take longer for some individuals. It is possible that a worker might be nearing the time for active work sometime shortly after the 7th year and this legislation would place him in a permanently disabled status. We urge a no vote on this legislation.