

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1411

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1411

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1411

**HOUSE INDUSTRY, BUSINESS AND LABOR**

☐ Conference Committee

Hearing Date 1-25-05

Tape Number	Side A	Side B	Meter #
3	x		16.0-end
Committee Clerk Signature <i>Jody Reinke</i>			

Minutes:

**Rep. Keiser:** Called the meeting to order on HB 1411. All committee members were present.

**Representative Zaiser:** Appeared in support of HB 1411 and also was a sponsor. What this bill does is talk about death benefits for the spouse of an injured worker. Its very difficult for a spouse to care for an injured loved one.

**Senator Tim Mathern, Fargo:** (see attached) Appeared in support of HB 1411. HB 1411 is just this, suppose you are a ND employee and you fell on the steps if you live long enough to file for Worker's Comp you'll get abut \$1000.00 a month on disability benefits, suppose you live 5 years and 11 months, your wife will get your benefits if your a man and your children will get your benefits up to a maximum 250,000 over the top of what they paid you in disability benefits, which leaves you to live reasonably well somewhere below the poverty level but a lot better then without anything. If your unlucky enough to live 6 years and 1 month your family will get no death benefits absoulty none and that's limited by the 6 year limitation presently.

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House Industry, Business and Labor Committee

Bill/Resolution Number HB1411

Hearing Date 1-25-05

**Sebald Vetter, Care :** Appeared in support of bill. The spouse should have something when I got injured my wife went out and worked 2 jobs, I had 2 boys in high school at the time and they put in a lot of hours, my income is not enough, for doing this she should be entitled for something, we all know that it isn't going to cost anymore then what it costs now.

**Ed Christenson:** Appeared for the record in support of 1411.

**Chris Runge, AFL-CIO:** Appeared for the record in support of 1411.

**Dave Kemnitz, President, AFL-CIO:** Appeared for the record in support of 1411.

**Jodi Bjornson, WSI:** Appeared in opposition of HB 1411 and provided a written statement (SEE ATTACHED TESTIMONY).

**Dave Straley, ND Chamber of Commerce:** Appeared in opposition of HB 1411 and provided written statement (SEE ATTACHED TESTIMONY).

Hearing adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1411**

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date **26 January 2005**

Tape Number	Side A	Side B	Meter #
3	X		2,930--end
3		X	0.5--5.4
Committee Clerk Signature <i>Sam Dever</i>			

Minutes:

**Chairman Keiser opened discussion of HB 1411.** This is the bill where we take out the limitation of six year from death from a disability. Your family would receive benefits. The bill simply says regardless of when the death occurs that those benefits would remain available.

**Rep. Johnson:** I understand the concerns but this is going to bring a lot of litigation because the death must be the direct result of a compensable injury. If it's 20 years ago to relate it to an injury is sometimes difficult for either side.

**Rep. Clark:** I wonder if what this refers to is that he is still getting payments from worker's insurance and so that that injury is still pertaining to that original injury. I don't know if it would pertain to future cases.

**Chairman Keiser:** As the law is written it would not effect him. He's doing this for other people.

**Rep. Clark:** So the surviving widow would have access to some benefits instead of the benefits just stopping.

**Rep. Ruby:** I spoke with Tim afterwards downstairs a little bit and the six year limit was put on many years ago. I know you mentioned it was somewhat arbitrary and 5 years and 11 months or the 6 years and 1 month but I talked to people from WSI and asked them if that's arbitrary at this time if there are advances in medicine is there a ways they tell that maybe a further period out if they can determine if it's somewhat associated with that injury. They really still believe at this time that's its very difficult to do because there are situations like diabetes that play in to it. One of the things they are working on an planning to implement is where there is a company that is a third party that does the settlement and gives the injured worker options depending on the time in their life they may have different options than someone who is at a younger age. The benefit of that is they don't have to have it contingent upon it being a death related to the injury. Once they make that settlement it's covered. If they die the agreement was kept and there's no situation where they have to go back and try to prove it was a part of the original injury. That's a better way to go and I'm glad they are working on that because it is a very difficult thing. Thinking about being in that situation I think this does what we want it to do. It does open up for litigation of trying to prove if it was related to that. I think that families will always say that because of the deteriorating effect of their injury that it led to a premature death. That's so hard to prove that it's always going to end up in litigation. The plan that they are heading for now I think is a better solution.

**Rep. Clark:** Did you ask Tim had this been in effect now how the plan they are working with and they have the option of the 65% or whatever it is. Isn't that it?

**Rep. Ruby:** I didn't ask Tim that because I had talked to him first and then went to WSI. Tim may have tried to contact them quite a bit lately. I remember talking with Mark Armstrong earlier about issue when the session first started because I'd gotten an e-mail from Tim. As it got closer to the session getting geared up he did get involved in the bill again and wanted it written. **Chair Keiser:** (begin side b, tape 3) This section of the code deals with death as the result of work injury. That gets hard to define. Tim wants to say, wait. I injured my back and as a result have never been healthy. We have to define limits. We can change the limits if we want. We have to give the bureau some authority so they can look at a case and make a judgment call. Tim is trying to do something with this bill which this bill is not designed for. Not the right area of the code that does what Tim needs. We have to look at the future.

**Rep. Kasper:** I think this is wrong. If an injured worker is a young man and becomes totally disabled. He will never be able to buy life insurance again. He has no death benefit when he dies. This is too deep of an issue for this committee to solve. We should turn this into a study resolution and demand this issue gets on the table. This would be a huge policy change here.

**Rep. Clark:** You have to remember that you can't build social security benefits either.

**Chair Keiser:** There is still time to draft a resolution. If we hog house it here, it becomes a bill. That will not fly. What are the wishes of the committee?

**Rep. N. Johnson:** I move a Do Not Pass on HB 1411. **Rep. Clark** seconds.

**VOTE:** 11 - YES, 3 - NO, 0 - AB, DNP - PASSED. **Rep. Kasper** will carry the bill.

# FISCAL NOTE

Requested by Legislative Council  
01/18/2005

Bill/Resolution No.: HB 1411

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

## WORKFORCE SAFETY & INSURANCE 2005 LEGISLATION SUMMARY OF ACTUARIAL INFORMATION

**BILL DESCRIPTION:** Removing the 6-year statute of limitations on death claims

**BILL NO:** HB 1411

**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, 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 eliminates the six year statute of limitations so that death benefits will be payable if disability continues to the time of death and the death is a direct result of the work injury, regardless of when the death occurs. Under current law, the surviving spouse of an injured worker will receive death benefits only if the worker dies within six years of injury and the death is a direct result of the work injury.

**FISCAL IMPACT:** The changes proposed under the legislation are similar to those presented as HB 1455 two years ago. At that time we pointed out that ultimate costs associated with HB 1455 could be substantial, but we were not able to develop a specific formal estimate of the cost of the proposed legislation because we did not have an appropriate base of experience to use in quantifying the ultimate effect of the change. The difficulty can be tied to the impossibility of estimating in advance the number of additional claims that will qualify for death benefits. Additionally, the analysis did not reflect increased litigation costs.

Instead, we attempted to estimate the maximum probable impact of the legislation. If applied prospectively-that is, only covering future injuries, we estimated that the annual costs for HB 1455 could reach \$3 million. We did not attempt to update our estimates for HB 1411 because of the tight timeframe associated with the current request for a cost estimate. Recent changes in the way permanent total disability claims are identified and resolved would likely increase the anticipated maximum costs by a material amount from our prior estimates. We assumed approximately



20 married PTD claims per year in our prior calculations. Current data suggests that 40 married PTD claims per year might represent a better estimate of future counts-possibly doubling our prior cost estimates.

If the proposed change is applied retroactively to prior claims, the reserve adjustment could be substantial. Our estimates in HB 1445 two years ago suggested at the \$250,000 cap, for every 5% (43 claims) of potential claims qualifying for death benefits (858) the undiscounted reserve increase would be approximately \$6.2 million. The current active PTD claim count is 980, of which most have been on disability for more than 6 years. Given the increase in the number that would be potentially eligible over the past two years, we would anticipate a sizable increase in the previous reserve estimate as well.

DATE: January 24, 2005

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.*

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-3760	<b>Date Prepared:</b>	01/24/2005

Date: 1-26-05  
Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1411

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. N. Johnson Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	✓		Rep. B. Amerman		✓
N. Johnson-Vice Chairman	✓		Rep. T. Boe	✓	
Rep. D. Clark	✓		Rep. M. Ekstrom		✓
Rep. D. Dietrich	✓		Rep. E. Thorpe		✓
Rep. M. Dosch	✓				
Rep. G. Froseth	✓				
Rep. J. Kasper	✓				
Rep. D. Nottestad	✓				
Rep. D. Ruby	✓				
Rep. D. Vigesaa	✓				

Total (Yes) 11 No 3

Absent -0-

Floor Assignment Rep. Kasper

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2005 4:24 p.m.

**Module No: HR-42-4459**  
**Carrier: Kasper**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1411: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1411 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1411

**House Bill 1411**  
**Industry Business and Labor Committee**  
**January 25, 2005**

Chairman Kaiser and Members of the House IBL Committee,

My name is Tim Mathern. I am the Senator from District 11 in Fargo. I speak in support of HB 1371.

Continuing benefits following death is important to the family of an injured worker at the workers death, we generally agree with this as we have it in the law at the present time. However to limit this benefit to a six year period is somewhat arbitrary. We also have more resources in the fund than we have had in the past.

HB 1411 helps families and respects the contributions of the deceased worker. I urge a do pass recommendation for HB 1411. Thank you.

## Credit Scoring

Ever wonder how a creditor decides whether to grant you credit? For years, creditors have been using credit scoring systems to determine if you'd be a good risk for credit cards and auto loans. More recently, credit scoring has been used to help creditors evaluate your ability to repay home mortgage loans. Here's how credit scoring works in helping decide who gets credit -- and why.

### What is credit scoring?

Credit scoring is a system creditors use to help determine whether to give you credit.

Information about you and your credit experiences, such as your bill-paying history, the number and type of accounts you have, late payments, collection actions, outstanding debt, and the age of your accounts, is collected from your credit application and your credit report. Using a statistical program, creditors compare this information to the credit performance of consumers with similar profiles. A credit scoring system awards points for each factor that helps predict who is most likely to repay a debt. A total number of points -- a credit score -- helps predict how creditworthy you are, that is, how likely it is that you will repay a loan and make the payments when due.

Because your credit report is an important part of many credit scoring systems, it is very important to make sure it's accurate before you submit a credit application. To get copies of your report, contact the three major credit reporting agencies:

- Equifax: (800) 685-1111
- Experian (formerly TRW): (888) EXPERIAN (397-3742)
- Trans Union: (800) 916-8800

These agencies may charge you up to \$9.00 for your credit report.

### Why is credit scoring used?

Credit scoring is based on real data and statistics, so it usually is more reliable than subjective or judgmental methods. It treats all applicants objectively. Judgmental methods typically rely on criteria that are not systematically tested and can vary when applied by different individuals.

### How is a credit scoring model developed?

To develop a model, a creditor selects a random sample of its customers, or a sample of similar customers if their sample is not large enough, and analyzes it statistically to identify characteristics that relate to creditworthiness. Then, each of these factors is assigned a weight based on how strong a predictor it is of who would be a good credit risk. Each creditor may use its own credit scoring model, different scoring models for different types of credit, or a generic model developed by a credit scoring company.

Under the Equal Credit Opportunity Act, a credit scoring system may not use certain characteristics like -- race, sex, marital status, national origin, or religion -- as factors. However, creditors are allowed to use age in properly designed scoring systems. But any scoring system that includes age must give equal treatment to elderly applicants.

### What can I do to improve my score?

Credit scoring models are complex and often vary among creditors and for different types of credit. If one factor changes, your score may change -- but improvement generally depends on how that factor relates to other factors considered by the model. Only the creditor can explain what might improve your score under the particular model used to evaluate your credit application.

Nevertheless, scoring models generally evaluate the following types of information in your credit report:

- *Have you paid your bills on time?* Payment history typically is a significant factor. It is likely that your score will be affected negatively if you have paid bills late, had an account referred to

- collections, or declared bankruptcy, if that history is reflected on your credit report.
- *What is your outstanding debt?* Many scoring models evaluate the amount of debt you have compared to your credit limits. If the amount you owe is close to your credit limit, that is likely to have a negative effect on your score.
  - *How long is your credit history?* Generally, models consider the length of your credit track record. An insufficient credit history may have an effect on your score, but that can be offset by other factors, such as timely payments and low balances.
  - *Have you applied for new credit recently?* Many scoring models consider whether you have applied for credit recently by looking at "inquiries" on your credit report when you apply for credit. If you have applied for too many new accounts recently, that may negatively affect your score. However, not all inquiries are counted. Inquiries by creditors who are monitoring your account or looking at credit reports to make "prescreened" credit offers are not counted.
  - *How many and what types of credit accounts do you have?* Although it is generally good to have established credit accounts, too many credit card accounts may have a negative effect on your score. In addition, many models consider the type of credit accounts you have. For example, under some scoring models, loans from finance companies may negatively affect your credit score.

Scoring models may be based on more than just information in your credit report. For example, the model may consider information from your credit application as well: your job or occupation, length of employment, or whether you own a home.

**To improve your credit score under most models, concentrate on paying your bills on time, paying down outstanding balances, and not taking on new debt. It's likely to take some time to improve your score significantly.**

How reliable is the credit scoring system?

Credit scoring systems enable creditors to evaluate millions of applicants consistently and impartially on many different characteristics. But to be statistically valid, credit scoring systems must be based on a big enough sample. Remember that these systems generally vary from creditor to creditor.

Although you may think such a system is arbitrary or impersonal, it can help make decisions faster, more accurately, and more impartially than individuals when it is properly designed. And many creditors design their systems so that in marginal cases, applicants whose scores are not high enough to pass easily or are low enough to fail absolutely are referred to a credit manager who decides whether the company or lender will extend credit. This may allow for discussion and negotiation between the credit manager and the consumer.

What happens if you are denied credit or don't get the terms you want?

If you are denied credit, the Equal Credit Opportunity Act requires that the creditor give you a notice that tells you the specific reasons your application was rejected or the fact that you have the right to learn the reasons if you ask within 60 days. Indefinite and vague reasons for denial are illegal, so ask the creditor to be specific. Acceptable reasons include: "Your income was low" or "You haven't been employed long enough." Unacceptable reasons include: "You didn't meet our minimum standards" or "You didn't receive enough points on our credit scoring system."

If a creditor says you were denied credit because you are too near your credit limits on your charge cards or you have too many credit card accounts, you may want to reapply after paying down your balances or closing some accounts. Credit scoring systems consider updated information and change over time.

Sometimes you can be denied credit because of information from a credit report. If so, the Fair Credit Reporting Act requires the creditor to give you the name, address and phone number of the credit reporting agency that supplied the information. You should contact that agency to find out what your report said. This information is free if you request it within 60 days of being turned down for credit. The credit reporting agency can tell you what's in your report, but only the creditor can tell you why your application was denied.

If you've been denied credit, or didn't get the rate or credit terms you want, ask the creditor if a credit scoring system was used. If so, ask what characteristics or factors were used in that system, and the best ways to improve your application. If you get credit, ask the creditor whether you are getting the best rate

and terms available and, if not, why. If you are not offered the best rate available because of inaccuracies in your credit report, be sure to dispute the inaccurate information in your credit report.

Where can you get more information?

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or to get free information on consumer issues, visit [www.ftc.gov](http://www.ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

FEDERAL TRADE COMMISSION	FOR THE CONSUMER
1-877-FTC-HELP	<a href="http://www.ftc.gov">www.ftc.gov</a>

*August 1998*



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## How Credit Scores Work

by [Lee Ann Obringer](#)

We apply for credit for many reasons -- maybe it's to buy a new car, house, computer, or get a student loan. Did you know, however, that there is a special number that can determine whether you can do these things, or at least how much it will cost you? Your credit score is a three-digit number that can do just that.

How can a single number be meaningful enough to determine whether you can buy a house or car? If you've read [How Credit Reports Work](#), you know that your credit report contains a history of how you've paid your bills, how much open credit you have, and anything else that would affect your creditworthiness. Your credit score boils down all of that information into a three-digit number.

In this article, we'll find out how this formerly secret number is used and how it affects how much you pay for credit, insurance and other life necessities.

### What is a Credit Score?

A credit score is a number that is calculated based on your credit history to give lenders a simpler "lend/don't lend" answer for people who are applying for credit or loans. This number helps the lender identify the level of risk they may be taking if they lend to someone. While the same end result can come through reviewing the actual credit report (which lenders usually do), the credit score is quicker and less subjective. The system awards **points** based on information in the credit report, and the resulting score is compared to that of other consumers with similar profiles. With this information, lenders can predict how likely someone is to repay a loan and make payments on time. It's the credit score that makes it possible to get instant credit at places like electronics stores and department stores.

Although there are several scoring methods, the score most commonly used by lenders is known as a **FICO** because of its origins with [Fair Isaac and Company](#). Fair Isaac is an independent company that came up with the scoring method and software used by banks and lenders, insurers and other businesses. Each of the three major credit bureaus (Experian, Equifax and TransUnion) worked with Fair Isaac in the early 1980's to come up with the scoring method.

The three national credit bureaus each have their own version of the FICO score with their own names. Equifax has the Beacon system, TransUnion has the Empirica system, and Experian has the Experian/Fair Isaac system. Each is based on the original Fair Isaac FICO scoring method and produces equivalent numerical results for any given credit report. Some lenders also have their own scoring methods. Other scoring methods may include information such as your income or how long you've been at the same job.

#### Accessing Your Score

Until recently, your credit score was not available to you. Only lenders and other businesses who used the score could access it. Fair Isaac and Company felt that the score would only confuse consumers since there was nothing to tell them what it meant or what the lenders were looking for.

In 2001, however, all of this changed due to pressure from the U.S. Congress, industry, and consumer groups. Now you can get your credit score at a number of Web sites, including the big three credit bureaus, and at Fair Isaac's Web site. You can also ask your lender for access to your score when you apply for a loan.

#### Calculating the Score

Think of your credit score like you would a grade in school. A teacher calculates grades by taking scores from tests, homework, attendance and anything else they want to use, weighting each one according to importance in order to come up with a final single number (or letter) score. Your credit score is calculated in a very similar manner. Instead of using the scores from pop quizzes and reports you wrote, it uses the information in your credit report.

The number itself can range from **300 to 900**. The formula for exactly how the score is calculated is proprietary information and owned by Fair Isaac. Here, however, is an approximate breakdown of how it is determined:

- **35% of the score is based on your payment history.** This makes sense since one of the primary reasons a lender wants to see the score is to find out if (and how timely) you pay your bills. The score is affected by how many bills have been paid late, how many were sent out for collection, any bankruptcies, etc. *When* these things happened also comes into play. The more recent, the worse it will be for your overall score.
- **30% of the score is based on outstanding debt.** How much do you owe on car or home loans? How many credit cards do you have that are at their credit limits? The more cards you have at their limits, the lower your score will be. The rule of thumb is to keep your card balances at 30% or less of their limits.
- **15% of the score is based on the length of time you've had credit.** The longer you've had established credit, the better it is for your overall credit score. Why? Because more information about your past payment history gives a more accurate prediction of your future actions.
- **10% of the score is based on the number of inquiries on your report.** If you've applied for a lot of credit cards or loans, you will have a lot of inquiries on your credit report. These are bad for your score because they indicate that you may be in some kind of financial trouble or may be taking on a lot of debt (even if you haven't used the cards or gotten the loans). The more recent these inquiries are, the worse for your credit score. FICO scores only count inquiries from the past year.
- **10% of the score is based on the types of credit you currently have.** The number of loans and available credit from credit cards you have makes a difference. There is no magic number or combination of types of accounts that you shouldn't have. These actually come more into play if there isn't as much other information on your credit report on which to base the score.

This information is **compared** to the credit performance of other consumers with similar histories and profiles.

#### Your Score Affects...

Your credit score doesn't just affect whether or not you get a loan; it also affects how much that loan is going to cost you. As your credit score increases, your credit risk decreases. This means your interest rate decreases.

This chart shows an example of how interest rates for a car loan can vary based on your credit score:

Auto Loans	FICO® Score					
	500-589	590-624	625-659	660-689	690-719	720-850
36-month new auto loan	18.597	16.206	12.225	9.498	7.386	6.674
48-month new auto loan	18.598	16.206	12.226	9.500	7.390	6.678

Source: myFICO.com

- [How Mortgages Work](#)
- [How Pawnshops Work](#)
- [How Identity Theft Works](#)
- [What are the differences between the various "chapters" of bankruptcy?](#)

More Great Links

### **Credit Score Information**

- [The Credit Scoring Site](#)

### **General Credit Reporting**

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TEXT OF P.L. 108-295

An Act

To amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'SUTA Dumping Prevention Act of 2004'.

**SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON TRANSFER OR ACQUISITION OF A BUSINESS.**

(a) IN GENERAL- Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following:

`(k)(1) For purposes of subsection (a), the unemployment compensation law of a State must provide--

`(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

`(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if--

`(i) such person is not otherwise an employer at the time of such acquisition, and

`(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

`(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a business,

`(D) that meaningful civil and criminal penalties are imposed with respect to--

`(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

`(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

`(E) for the establishment of procedures to identify the transfer or acquisition of a

business for purposes of this subsection.

(2) For purposes of this subsection--

(A) the term 'unemployment experience', with respect to any person, refers to such person's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

(B) the term 'employer' means an employer as defined under the State law;

(C) the term 'business' means a trade or business (or a part thereof);

(D) the term 'contributions' has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

(E) the term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

(F) the term 'person' has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.'

(b) STUDY AND REPORTING REQUIREMENTS-

(1) STUDY- The Secretary of Labor shall conduct a study of the implementation of the provisions of section 303(k) of the Social Security Act (as added by subsection (a)) to assess the status and appropriateness of State actions to meet the requirements of such provisions.

(2) REPORT- Not later than July 15, 2007, the Secretary of Labor shall submit to the Congress a report that contains the findings of the study required by paragraph (1) and recommendations for any Congressional action that the Secretary considers necessary to improve the effectiveness of section 303(k) of the Social Security Act.

(c) EFFECTIVE DATE- The amendment made by subsection (a) shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act.

(d) DEFINITIONS- For purposes of this section--

(1) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(2) the term 'rate year' means the rate year as defined in the applicable State law; and

(3) the term 'State law' means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

### **SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.**

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following:

(8) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS-

'(A) IN GENERAL- If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

'(B) CONDITION ON DISCLOSURE BY THE SECRETARY- The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

'(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES-

'(i) IN GENERAL- A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

'(ii) INFORMATION SECURITY- The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

'(iii) PENALTY FOR MISUSE OF INFORMATION- An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

'(D) PROCEDURAL REQUIREMENTS- State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

'(E) REIMBURSEMENT OF COSTS- The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.'

**2005 House Bill No. 1411**  
**Testimony before the House Industry, Business, and Labor Committee**  
**Presented by: Jodi Bjornson, General Counsel**  
**Workforce Safety and Insurance**  
**January 25, 2005**

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson and I am here to testify on behalf of WSI in opposition to HB 1411. The WSI Board of Directors opposes this bill.

Under current law, the survivors of an injured worker are eligible to receive up to \$250,000 in death benefits if wage replacement benefits continue until the time of death; the death was a result of a work injury; and the death occurred within the six years from the date of injury. During the 2003 Legislative Assembly, HB 1455 was introduced to eliminate this six-year statute of limitation. The HB 1455 introduced in 2003 resembles the HB 1411 language before you. WSI opposed HB 1455 on a number of grounds:

- A more than twenty five percent increase in death benefits passed during the 2003 legislative session;
- Any modification to or elimination of the death benefit statutes warranted more extensive review and analysis;
- ND's unique law that provides permanent partial impairment benefits;
- Potential significant rate and reserve level increases; and
- An expected increase in litigation and litigation costs.

Since the 2003 Legislative Assembly, WSI has reviewed the death benefit statutes and paid particular attention to long-term disability recipients. The goal of the review was to address concerns while balancing any proposed changes with the financial impact to the fund. The review included all fifty states.



Our research confirmed the fifty states have very different death benefit structures. One option we explored for North Dakota's system was a program in place in the state of Washington. In Washington, permanent total benefit recipients may elect, at the time of permanent total disability designation, to receive an actuarially reduced benefit for life, which, upon death, is paid to predetermined survivors.

WSI determined something similar could be achieved in North Dakota without a change in law. HB 1060, passed in 2003, afforded WSI greater latitude with respect to long-term wage replacement recipients. Section 65-05-25 of the North Dakota Century Code now provides WSI with the authority to utilize structured settlements to provide for the payment of future benefits or to resolve disputes. Section 65-05-25(4) states: "*4. Notwithstanding any other provision of law, structured settlements may be used to resolve a dispute or to provide for payment of ongoing disability benefits. The organization may contract with a third-party vendor to provide structured settlement payments.*"

A structured settlement is the payment of money where at least part of the settlement calls for future payments. The payments may be scheduled for any length of time and may consist of installment payments or future lump sums. Payments can be in fixed amounts or vary. The schedule is structured to meet the financial needs of the individual. These needs typically include income replacement, future medical expenses, educational funds, or retirement considerations. This is a common practice in the insurance industry, and should prove to be beneficial for all parties depending on the facts of the claim.

This past fall, WSI consulted with two structured settlement companies to further explore this option. We currently have in place a structured settlement pilot team. Consistent with our actuary's advice, we will initially conduct one or two test settlements to evaluate this alternative on a limited scale.

In sum, due to the potentially significant reserve and rate impact, the expected increase in litigation, and current structured settlement options, WSI requests a "do not pass" on HB 1141. If there are any questions, I would be happy to answer them at this time.

Before the House Industry, Business, and Labor Committee 50757.0100

January 25, 2005

Mr. Chairman

Members of the Committee

My name is Timothy Effertz

I live at 11600 20 Ave SE, Minot 58701

I can be reached by telephone at 701 8383261

My email address is [teffertz@srt.com](mailto:teffertz@srt.com)

I come as both an employer and a disabled employee to speak in favor to HB 1411. I was here last session to support about the same provisions in HB 1455, and at the session before that too. The Bureau swore they would unilaterally find a resolution to this inequity before this session, but they did not produce. The Legislature called for a study, but it did not happen. The problem did not go away.

Here is what HB 1411 fixes:

Suppose you are a North Dakota employee. Suppose as you descend the stair steps at work today, the stair step is defective and you fall causing neck injuries that leave you unable to ever work again. If you live long enough to file for workers compensation, you might get \$1,000 per month in disability benefits.

Suppose you live for 5 years and 11 months, when you die from your injury; your spouse and children will continue to receive death benefits in the same amount as your disability benefits. Your spouse would be paid your benefits, and your family would live at a lifestyle somewhere below the poverty level.

Now Alternatively; suppose you were **un**lucky enough to instead live 2 more months until 6 years and one month from your injury date, with all other conditions being exactly the same: Now your disability benefits stop when you die, and your family is not entitled to any death benefits simply because you lived past the 6 years allotted by NDCC 65-05-16 subsection 1 c as the right time for you to die. You could not even help yourself die on time because death must be as a direct result of your injury, not at your own hand.

The "Exclusive Remedy Provision" of workers compensation law at 65-01-01 abolished the rights of your spouse and children to sue the owner of the building who is also your boss, because the stair step was known to them to be defective. In return for abolishing constitutional rights, the Exclusive Remedy promised "sure and certain relief" not to just the workers, but **expressly for their families**. Surprisingly, the Act provides **no relief to**

**some spouses.** This missing relief cannot replace the loss of their rights under Article 1 Section 9 of the Constitution. That access to the court that was "abolished" to protect your employer from your spouse and children who might otherwise bring suit for their losses of a Husband and Father or Wife and Mother. There is no "fair trade" like is recognized by our Supreme Court for the injured workers themselves; where employees unwillingly trade their civil rights for sure and certain relief. There is simply **no** relief provided for your spouse, if you live six years or more!

You could easily be sitting in my wheelchair in my position in very much the same condition. My wife did not bail out when I got hurt in 1962. She has kept me as she promised in 1960, for worse, not better, and for poorer not richer, until one of us dies. She has helped me for 40+ years, and kept me out of the nursing home, saving the employers countless thousands of dollars. It is depressing to know that I lived past the 6 years allotted time to die, costing her most of life's opportunities to make a life of her own. Now I am likely to leave her with little more than half of my social Security check to pay the bills with when I die. She is about as old as I am, and too old to build much additional retirement.

Mr. Chairman, Members of the Committee, This is a purely matter of equity and unfulfilled justice. The Legislature promised "sure and certain relief", but will deliver "no relief" to my wife. Yes, she shared my disability benefits, but they came along with great and permanent poverty and extreme personal inconvenience. Until HB1411, the Legislature would still throw her away as soon as I die, because no Legislature has had the courage to fulfill the promise made to her in 1919. Mr. Chairman and Members of the Committee, I submit that 86 years of delay is more than enough, and I have been disabled half of that time, and deserve to die in peace.

The projected costs for HB 1455 last session was that it would cost about \$10 per insured employee each year. I believe employers can live with that cost. Further, this is somewhat of a cost shift from our social services program back to the Workers Compensation Fund, where it belongs.

Mr. Chairman, and Members of the Committee; the opponents will likely argue that HB1411 will cause an unfunded liability in the Fund. They may tell you that this bill is retroactive instead of proactive. I ask the Committee to take notice that the Act prohibits paying death benefits to those who do not file a claim within two years of the workers' death, therefore the benefits can not extend back more than two years. That two-year limit makes these additional benefits proactive.

The opponents may suggest that the four preceding years were not enough time to study this problem. Mr. Chairman, and Members of the Committee; Please take notice that when HB1411 passes, if the Bureau discovers a unexpected result after the fact, very few if any persons will have a vested right to receive the increase before it could be repealed and repaired next session. The reason is that death of the injured worker, a timely application, and then the appeals process are the required before the benefit can become vested. From my own experiences I assure you: It will take more than two years to get

through the various special levels of the complicated appeals process under the Administrative Practices Act and then finally through the District Courts before the additional benefits would be vested. By that time The Legislature will again be back in session and able to legislate away the offending cause of action. The risk of HB 1411 causing a long-term expensive unintended balloon payment is nil.

In 1919, it took about ten years for work injury cases to get through the Courts. The 1919 Legislature wrote a new concept of law to try to cure the situation wherein employers paid large amounts of damage that chiefly went into the pockets of attorneys, while the disabled workers and their families starved and died from lack of timely care. It is reasonable to recognize the good intentions of that Legislature by looking at the promise of relief for spouses in the preamble of the Act, and to understand why they failed to specify what relief they would provide past the first six years. I suggest that the Legislature intended to fix the holes in the new law when the problems were adequately presented in legislation like HB1411. This is really just a housekeeping bill.

Mr. Chairman, Members of the Committee, There are spouses who are left with no death protection under this law even if it is changed today. Workers Compensation is an imperfect concept. You could completely revise the system, but still not make it fair and equitable. I believe that the opportunity is ripe to include these few additional spouses into the group of spouses already receiving benefits because of a death before 6 years. It will not further complicate passage of a more comprehensive change in the law sometime in the future to cover all spouses under all causes of death of a disabled employee. It would however make it easier for me to die knowing HB 1411 has passed.

Mr. Chairman, and Members of the Committee; there are a small number of spouses of the disabled falling through the cracks in the Workers Compensation system right onto public welfare because of the six year limit on death benefits under NDCC 65-05-16. It seems totally unfair to pay lifelong death benefits to those spouses whose breadwinners die before 6 years, but pay no death benefits to the spouse of a worker who dies after 6 years. If lifelong death benefits make sense for some spouses, it makes sense for all spouses in the same situation. HB1411 seals one more crack in the system by providing the relief promised to be provided at the expense of we employers through the Fund. HB 1411 is simply the right thing to do this session.

I encourage you to recommend a do-pass on HB 1411.

Thank you for your time and patience. This issue is extremely important to me.

Tim



**Testimony of David Straley  
Greater North Dakota Chamber of Commerce  
Presented to the  
House Industry, Business and Labor Committee  
January 25, 2005**

**HB 1411**

Mr. Chairman and members of the House Industry, Business and Labor Committee, my name is David Straley. I am here today representing a coalition which includes area chambers of commerce in North Dakota with over 7,400 member businesses and other associations to urge you to **oppose** House Bill 1411.

In order for WSI to pay the death benefit, the death of the employee must be a *direct result* of the injury sustained **AND** a certain time frame is met. This bill, if passed, would remove an objective test of six years from the date of injury with continuous disability, to an indefinite amount of time.

The business community believes that passing this bill will open the door for litigation. Litigation will cost WSI and families unnecessary amounts of money. Causation will be extremely tough to prove in any of these cases, so there will be a need for costly expert witnesses, doctors, etc... The business community believes the objective test of six years is a much better indicator than unpredictable litigation.

For example: an employee is injured at age 35 and receives a continuous disability payment until death at age 60. There will be unnecessary litigation over 25 years of medical records to prove causation—which is going to be extremely expensive with expert witnesses and doctors. By saying no to this bill, you will be saying no to a subjective test with unpredictable outcomes and costs.

Thank you, Chairman Keiser and members of the House Industry Business and Labor Committee, for this opportunity to discuss the business community's position on HB 1411. We urge a **DO NOT PASS** for HB 1411. Thank you and I would be happy to answer any questions at this time.

The following chambers are members of a coalition that support our policy statements:

Beulah  
Bismarck-Mandan  
Bottineau  
Cando  
Crosby  
Devils Lake  
Dickinson  
Fargo  
Grand Forks  
Greater North Dakota Chamber of Commerce  
Hettinger  
Jamestown  
Langdon  
Minot  
Wahpeton  
Watford City  
West Fargo  
Williston

Total Businesses Represented= 7429