

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2285

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2285
2/3/2015
Job Number 23058

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to exceptions from the duty of an employer to indemnify an employee for expenses

Minutes:

Attachment

Chairman Klein: Opened the hearing.

Senator Holmberg: Introduced the bill. He talked about Amazon being in Grand Forks for fifteen years. It's a large outfit with seven hundred employees. Most of the employees are site based they go to the office. Amazon would like to grow in the area of employees that virtually work from home. There is some language in state statute that needs to be clarified to put North Dakota on equal ground of surrounding states.

Joe Gilbertson, On behalf of Amazon: Written Testimony from Braden Cox, Director, Public Policy, Attached (1). Amazon has had great success with customer service in Grand Forks and it reflects on what is, North Dakota nice. He went over the written testimony. (3:00-5:45)

Chairman Klein: I guess it seems like a simple change. I am sure it is a contractual discussion between the employee and employer and they will go into this understanding they aren't getting a free computer and cell phone.

Andy Peterson, Greater North Dakota Chamber: They are in support of the bill. We need this law to bring clarity.

Chairman Klein: Closed the hearing.

Senator Sinner: Moved a do pass.

Senator Miller: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senate Industry, Business and Labor Committee
SB 2285
February 3, 2015
Page 2

Senator Sinner will carry the bill.

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2285**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Sinner Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Sinner

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

REPORT OF STANDING COMMITTEE

SB 2285: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2285 was placed
on the Eleventh order on the calendar.

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2285

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2285
3/17/2015
24973

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Exceptions for the duty of an employer to indemnify an employee for expenses.

Minutes:

Attachment 1, 2

Chairman Keiser: Opens the hearing on SB 2285.

Senator Holmberg~District 17: (Attachment 1).

Representative Lois Delmore~District 43: Ask for support to SB 2285 which will allow Amazon to continue to be a major employer in my city and will encourage more jobs to work at home.

Chairman Keiser: I don't understand what the problem is?

Representative Delmore: It's the people who are working at home that will have their own computer and equipment. Rather than Amazon replicating that, they can take care of it and they can use it for their personal needs as well as for the business.

Chairman Keiser: Amazon will not be charged partial fee on using my computer 10% of the time.

Representative Delmore: I would like someone else to answer that specifically.

Representative Laning: Amazon would pay for some of the uses at home?

Representative Delmore: I would like them to answer that.

Eileen Sullivan~Senior Manager for US State Public Policy for Amazon: (Attachment 2). Also introduces **Brian Nelson~Senior Site Leader for the Grand Forks location.**

Brian Nelson: Describes his job by reading part of the testimony (2) .

Sullivan: Continues testimony.

9:35

Representative Laning: In code, Amazon is not obligated to purchase or reimburse for that. Is there a problem right now in code that prevents you from doing that without this change?

Sullivan: We feel there is and the way our employment attorneys interpret the law in North Dakota that we're obligated to do so. In order to expand it, we seek to get clarification in the law.

Representative Beadle: The way the Amazon works, if I have my own equipment, I log in and work off of that, but it's still my computer. I wouldn't have to be installing different things on to it. With the phone system, how would that impact the consumer's normal minutes with their provider? Would that go through a similar Wi-Fi app system that takes over the phone or would I be utilizing my minutes that are a cost that I would incur with my network?

Sullivan: I'm not that familiar with that.

Nelson: Explains.

Representative Ruby: One of the concerns is if this is going to be in code for your situation, in other entities, the use of equipment, do you see a problem with those types of arrangements?

Sullivan: We did explore that with our attorneys and they said this only protects from having to buy something they already have. If it's specifically required for the work and it's something you would already do or own, yes, we reimburse that.

Representative Ruby: Why the language of rent tools?

Sullivan: The key it could be outside of employment.

Representative Kasper: What do you do about the protection for the consumer for confidential information connected to your network?

Sullivan: Amazon takes confidentially, privacy and security seriously because the customers are number one. Amazon is the most trusted company for security and privacy in the US. We are not about to put that at risk.

Representative Kasper: How many security breaches have you had where confidential was taken?

Sullivan: There aren't any I know of but I will get back to you on that.

Vice Chairman Sukut: When you establish these relationships with the virtual offices, aren't they generally contractual arrangements between your company and individuals?

Nelson: It's essentially like working in our building. They report to us.

Vice Chairman Sukut: There is no type of agreement.

Nelson: They sign that they understand the rules and handbook.

Vice Chairman Sukut: This legislation, it eliminates you from some of the responsibility.

Nelson: What we hear from employees is that they have better machines than we have.

Representative M Nelson: What stops Amazon from saying, you should bring your own equipment to the office?

Sullivan: Only North Dakota, Alaska and California have these kinds of requirements on the books. It's working well in the other states where we have virtual call centers.

Chairman Keiser: On line 12, other equipment that "maybe use outside the employment". May is a very permissive term, why can't we say "is used outside of the employment", versus "may"?

Sullivan: I'm not an attorney and it's just the language.

Representative Kasper: If the employee uses their own equipment, does Amazon reimburse them a stipend for using their own equipment?

Sullivan: We are trying to avoid that situation with this language.

Representative Kasper: Whether or not this bill passes, you would pay a stipend for the internet connection at home?

Sullivan: No.

Representative Kasper: You are able to avoid substantial cost that you are currently incurring?

Sullivan: Cost, yes and with the idea of expanding it could be substantial.

Representative Kasper: By statute, you will be able to avoid cost for your company that you are currently incurring because we don't have the exemption in North Dakota? The employee is picking up part of your cost as a condition of employment if this bill passes?

Joel Gilbertson~On behalf of Amazon: The previous commissioner and the Amazon lawyers said that the way we read this law doesn't require us to pick up these expenses. We have a question as to whether we are going to interpret it to say we do have to. If it doesn't, can you send us an opinion letter that says that you do not have cover those expenses. The commissioner said at that time, I can't do that. That is the reason for the bill to clarify it.

Chairman Keiser: What about the "may" to "is"?

Gilbertson: No problem.

Representative Kasper: The people working at home, we are not making them a contractor opposed to an employee, are we?

Gilbertson: No, that's not intended at all.

Chairman Keiser: Anyone else here to testify in support of SB 2285, opposition?

Tom Ricker~North Dakota AFL-CIO: It's extremely broad and I had many questions. The word any and maybe are two words we don't like. The language is too broad and can be interpreted in any way.

Chairman Keiser: Anyone else here to testify in opposition of SB 2285, neutral? Closes the hearing on SB 2285, what are the wishes of the committee?

Representative Ruby: Moves to amend "maybe" to "is" on page 1, line 12-13.

Vice Chairman Sukut: Seconded.

Voice vote-motion carries.

Representative Kasper: Wondering on line 12, the words "of a trade" is there a reason to consider a different word?

Representative Laning: I think the word "of a trade" is as good as any.

Representative Ruby: Moves a Do Pass as Amended.

Representative Boschee: Seconded.

Chairman Keiser: Further discussion?

Representative Becker: I'm going to support the motion. I don't have any issue, the free market will determine if they have competition, they have a choice.

Roll call was taken on SB 2285, for a Do Pass as Amended with 12 yes, 2 no, 1 absent and Representative Laning will carry the bill.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2285
3/18/2015
24973

- ☐ Subcommittee
☐ Conference Committee

Ellen Litang

Explanation or reason for introduction of bill/resolution:

Exceptions for the duty of an employer to indemnify an employee for expenses.

Minutes:

Attachment 1

Chairman Keiser: Opens the work session hearing on SB 2285. We took action on it and Legislative Council reviewed our actions on the amendment and made changes. **(Attachment 1)**. This would require for us to reconsider our actions by which we passes as amended.

Representative Devlin: Moves to reconsider to bring back SB 2285.

Representative Lefor: Seconded.

Voice vote-motion carried.

Representative Ruby: Further amend what LC wanted.

Representative Becker: Seconded.

Voice vote-motion carried.

Representative Ruby: Moves a Do Pass as Amended.

Vice Chairman Sukut: Seconded.

Roll call was taken on SB 2285, for a Do Pass as Amended with 12 yes, 1 no, 1 absent and Representative Laning will carry the bill.

March 18, 2015

JK
3/18/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2285

Page 1, line 12, remove "may"

Page 1, line 13, replace "be" with "is also"

Page 1, line 13, after "used" insert "by the employee"

Page 1, line 13, after "the" insert "scope of"

Renumber accordingly

Date: Mar 17, 2015Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2285**

House Industry, Business & Labor Committee
☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
 Other Actions: ☐ Reconsider ☐ _____

 Motion Made By Rep Ruby Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Bosch		
Representative Frantsov			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

"maybe to" is
 pg 1, line 12 & 13
 voice vote - motion carried

Date: Mar 17, 2015Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2285**

House Industry, Business & Labor Committee☐ Subcommittee☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment☒ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☒ As Amended☐ Rerefer to AppropriationsOther Actions: ☐ Reconsider☐ _____Motion Made By Rep Ruby Seconded By Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson		X
Representative Laning	X				

Total (Yes) 12 No 2Absent 1Floor Assignment Rep Laning

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

Date: Mar 18, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2285

House Industry, Business & Labor Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☒ Reconsider ☐ _____

Motion Made By Rep Devlin Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Bosch		
Representative Frantsov			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote - motion carried

Date: Mar 18, 2015Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2285**

House Industry, Business & Labor Committee
☐ Subcommittee

 ☐ Conference Committee
Amendment LC# or Description: LC wishes

Recommendation: ☐ Adopt Amendment
 ☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
 ☐ As Amended ☐ Rerefer to Appropriations
 Other Actions: ☐ Reconsider ☒ further amend

Motion Made By Rep Ruby Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Bosch		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote - motion carried

Date: Mar 18, 2015Roll Call Vote: 3

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2285**

House Industry, Business & Labor Committee☐ Subcommittee☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation☒ As Amended ☐ Rerefer to AppropriationsOther Actions: ☐ Reconsider☐ _____Motion Made By Rep Ruby Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 12 No 1Absent 2Floor Assignment Rep Laning

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

REPORT OF STANDING COMMITTEE

SB 2285: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (12 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). SB 2285 was placed
on the Sixth order on the calendar.

Page 1, line 12, remove "may"

Page 1, line 13, replace "be" with "is also"

Page 1, line 13, after "used" insert "by the employee"

Page 1, line 13, after "the" insert "scope of"

Renumber accordingly

2015 TESTIMONY

SB 2285

2/3/15

#1



February 2, 2015

Assistant Majority Leader Jerry Klein
Legislative Assembly
600 E. Boulevard Avenue
Bismarck, ND 58505

RE: Support for Senate Bill 2285

Dear Chairman Klein and Members of the Industry, Business and Labor Committee:

Thank you for considering Senate Bill 2285, relating to exemptions from the duty of an employer to indemnify an employee for expenses. This bill makes much needed clarification to regulatory language for employers who have, or would like to hire, employees that work from home.

Amazon recently celebrated 15 years in Grand Forks, where we are among the largest private employers. Most of our approximately 700 employees commute to our main customer service facility on South 48th Street. We'd like to expand our ability to hire and retain the best workers, so we have developed a unique "virtual call center" program, where employees could work "virtually" from home. For this program to become reality in North Dakota, however, we seek clarity in current law.

S.B. 2285 provides this needed clarity. It states that an employer's obligation to indemnify does not include expenses incurred to purchase or rent tools of a trade or any other equipment that may be used outside the employment. Contrast the more precise language in S.B. 2285 with current law, which exposes employers to unknown liabilities for expenses now common to most households, such as phone or Internet access.

There are great benefits to employees when they can work "virtually," including flexibility for those with child care and elder care responsibilities, no commuting costs, and better workforce participation for those with physical impairments. There are also societal benefits in reduced energy consumption, pollution and traffic congestion. Through our innovative work from home program Amazon supports these benefits, and we would similarly appreciate this Committee's support for amending the law.

We hope that you will accept this written commentary, and we look forward to meeting many of you soon in person when we are next in Bismarck.

Sincerely,

A handwritten signature in black ink, appearing to read "Braden Cox", written in a cursive style.

Braden Cox,
Director, US State Public Policy

cc: Members of the Industry, Business and Labor Committee

601 New Jersey Ave., NW
Washington, DC 20001

Talking points – SB 2285

Amazon just celebrated 15 years in Grand Forks.

Amazon current employs approximately 700 people in Grand Forks

Most of these are office based. However, Amazon would like to grow in the area of employees who work “virtually” or from home.

There is presently some language in state statutes that needs to be clarified to put North Dakota on equal ground with other surrounding states.

SB 2285 would address the problem and encourage Amazon and other companies hiring employees who can work from home to expand in North Dakota.

March 17, 2015



March 17, 2015

Representative George J. Keiser
Legislative Assembly
600 E. Boulevard Avenue
Bismarck, ND 58505

RE: Support for Senate Bill 2285

Dear Chairman Keiser and Members of the Industry, Business and Labor Committee:

Thank you for considering Senate Bill 2285, relating to exemptions from the duty of an employer to indemnify an employee for expenses. This bill makes much needed clarification to regulatory language for employers who have, or would like to hire, employees that work from home.

Amazon recently celebrated 15 years in Grand Forks, where we are among the largest private employers. Most of our approximately 700 employees commute to our main customer service facility on South 48th Street. We'd like to expand our ability to hire and retain the best workers, so we have developed a unique "virtual call center" program, where employees could work "virtually" from home. For this program to become reality in North Dakota, however, we seek clarity in current law.

S.B. 2285 provides this needed clarity. It states that an employer's obligation to indemnify does not include expenses incurred to purchase or rent tools of a trade or any other equipment that may be used outside the employment. Contrast the more precise language in S.B. 2285 with current law, which exposes employers to unknown liabilities for expenses now common to most households, such as phone or Internet access.

There are great benefits to employees when they can work "virtually," including flexibility for those with child care and elder care responsibilities, no commuting costs, and better workforce participation for those with physical impairments. There are also societal benefits in reduced energy consumption, pollution and traffic congestion. Through our innovative work from home program Amazon supports these benefits, and we would similarly appreciate this Committee's support for amending the law.

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Sincerely,

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Braden Cox,
Director, US State Public Policy

cc: Members of the Industry, Business and Labor Committee

601 New Jersey Ave., NW
Washington, DC 20001

Mar 18, 2015

NDLA, Intern 05 - Johnson, Brian

From: Dawson, Tim J.
Sent: Tuesday, March 17, 2015 2:20 PM
To: NDLA, Intern 05 - Johnson, Brian
Subject: FW: 2285

See below. I forgot also.

Timothy J. Dawson
Legal Counsel
North Dakota Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360
tdawson@nd.gov
701.328.2916

From: Dawson, Tim J.
Sent: Tuesday, March 17, 2015 2:19 PM
To: NDLA, Intern 05 - Johnson, Brian
Subject: 2285

The obligation to indemnify does not include . . . other equipment that is **also used by the employee** outside the scope of employment.

Bold is what I added.

Timothy J. Dawson
Legal Counsel
North Dakota Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360
tdawson@nd.gov
701.328.2916