

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1345

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1345

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1345**

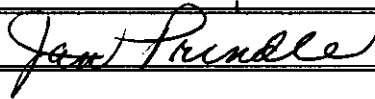
### House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **5 February 2007**

Recorder Job Number: **2760 and 2762**

Committee Clerk Signature



Minutes:

**Representative Bill Amerman, District 26, introduced HB 1345.** This was brought forth from constituents and has to do with disability benefits. I think this is a fair bill and a simpler way for WSI to have this benefit go forward.

**Ed Christensen, an injured worker, testified in favor of the bill. (Testimony Attached.)**

**Sebald Vetter testified that he supports this bill.**

**Leroy Volk testified that he supports this bill.**

**Dan Finneman testified that he supports this bill.**

**Tim Wahlin, staff counsel for WSI, testified Neutral on the bill. (Testimony Attached.)**

Our board has taken a neutral position because it is possible the prospective benefits may have fiscal impact, it seems only prudent to make sure that this committee has the fiscal impact in hand to make decisions.

**Chairman Kaiser:** So fiscal impact has not been grounds for opposing the bill this time? This deals with total disability cases only?

**Wahlin:** I'm here at the request of the board of directors. They have adopted a policy that when you are talking about a future benefit change, to provide information. It deals with anybody on our system when they reach retirement age if they are on disability benefits of any

type; they will convert to an additional benefit payable and will receive that as of their retirement date.

**Chairman Kaiser:** So if they are receiving benefits before they reach retirement age, what percent of the average weekly wage are they receiving? When is retirement age?

**Wahlin:** Their average weekly wage determination will be two-thirds of their pre-injury average weekly wage. For years it was 65. We have a retirement scale now adopted by the federal government. I believe it is 66.

**Chairman Kaiser:** Let's use 65. I'm injured 10 years before so I'm going to receive, based on my weekly wage at that time, two-thirds of it up to that limitation. In addition, do I start receiving at that time ABP (Additional Benefits Payable), or only after I retire do I receive those.

**Wahlin:** It's only after you retire. At 55 when you were injured, you would be receiving two-thirds of your average weekly wage until your retirement date. On your retirement date you will now convert to an ADP.

**Chairman Kaiser:** So theoretically I'm going to be converting to social security plus, if I go to the current formula, I'd be getting 25% of and with the proposed formula I'd be getting 30%.

**Wahlin:** That's correct.

**Representative Zaiser:** What about this handout that shows the dramatic reduction of permanent total disability from an average of 35 a year down to 0 for the last two years.

**Wahlin:** I attribute that to misinterpretation. The schedule you have before you is an injury year schedule. For example, in 2005-6, our injuries arose in that particular year. Obviously the newer the injury, the less time we have to determine its severity. It may be an on-going procedure. As we watch those injuries get older and older, you will find more and more permanent total disabilities being seen in that particular injury year which is only natural

because we have more information regarding the injury and the ability for rehabilitation and things like that.

**Representative Zaiser:** One of the other witnesses from WSI testified that the further out, the harder it was to determine disability. Based on that statement, I would think it would be harder to increase the numbers. You are saying the further out we are going to add numbers. It seems to me a contradiction.

**Wahlin:** I don't see that there is any contradiction. I believe the prior testimony was that the further we get from the injury, the more unable we are to determine whether or not that injury was work related. These are claims that have been accepted and paid. They are on benefits, they have already adjudicated but we're watching the treatment, we're watching the severity and at some point we will be determining if they are accepted for permanent total disability.

**Chairman Kaiser:** A policy question—is our current accelerated rate structure appropriate?

**Wahlin:** My understanding of how we got there is that we realized that once you are on total disability you are not going to gain social security quarter contribution. We recognized that they would be short. The percentages that were adopted at the time I believe were an attempt to mimic that shortfall and make up for it so that your social security retirement linked with the ABP approximated what you could expect at social security retirement had you worked.

**Representative Zaiser:** Your statement did not really clarify because you are only dealing with people in this graph that was determined by you as totally disabled. It doesn't go on to talk about the people that weren't determined. I still see a conflict with your statement and the graph.

**Wahlin:** You are looking at the total disability column. Total disability is what we grant after all of our rehabilitation efforts have been unsuccessful. It does not represent people just on the system. If you go to the temporary column, you will find the exact reverse of that permanent total disability because they start on temporary and they either will be able to go

back to work or they won't. If they are unable, they will go to the total disability column and it gets higher so you will find the reverse as the temporary column gets less and less.

**Chairman Kaiser:** After 2005, I believe it was HB 1171, how is that going to impact this? We anticipate its impact somewhere.

**Wahlin:** We do anticipate an impact especially within our permanent total disability population. That will go from an average of 50 per year to an average of 40 per year. We hope that our rehabilitation benefits rate paid while in school will jump.

**There being no further testimony, Chairman Kaiser closed the hearing of HB 1345.**

**At a later time on the same date, discussion was opened on HB 1345.**

**Representative Amerman:** I move Do Pass.

**Representative Boe:** I second.

**A roll vote was taken: Yes: 4, No: 9, Absent: 1 (Thorpe)**

**The motion failed.**

**Representative Dietrich:** I move Do Not Pass

**Representative Ruby:** I second. I have a problem with the way this bill seeks to change practice in which these benefits are awarded and increased over the years. I really am impressed with people who say we were born with advantage who have no idea where we came from, what we have done, what we have achieved, or where we started from. When we talk about helping the little people that assumes that we're the big people. If any one knows where I came from, I'm more of a little people than anybody. I have scars from my occupation that people don't know about unless I show them. I resent that and I have to make that statement.

**A roll call vote was taken. Yes: 9, No: 4, Absent: 1 (Thorpe)**

**The Do Not Pass prevailed. Representative Vigesaa will carry the bill.**

# FISCAL NOTE

Requested by Legislative Council

01/30/2007

**REVISION**

Bill/Resolution No.: HB 1345

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation increases the additional benefit payable payment structure which is the post-retirement benefit for post-1995 claims.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE  
2007 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1345

BILL DESCRIPTION: Additional Benefit Payable (ABP)

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 increases the additional benefit payable payment structure which is the post-retirement benefit for post-1995 claims.

Reserve Level Impact: The proposed legislation can be expected to increase discounted reserve levels for known claims between \$5.5 and \$7.0 million. To the extent additional claims emerge the cost estimates would be higher.

Rate Level Impact: The proposal will serve to increase the costs associated with future claims. Currently, it is estimated that 40 Permanent Total Disability claims which ultimately convert into ABP claims will arise out of each injury year. Based on this assumption, the proposal will serve to increase statewide premium rate levels by approximately one half of one percent (0.5%).

DATE: January 30, 2007

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-3760	<b>Date Prepared:</b>	01/30/2007



# FISCAL NOTE

Requested by Legislative Council

01/11/2007

Bill/Resolution No.: HB 1345

**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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation increases the additional benefit payable payment structure which is the post-retirement benefit for post-1995 claims.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE  
2007 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1345

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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 increases the additional benefit payable payment structure which is the post-retirement benefit for post-1995 claims.

Reserve Level Impact: The proposed legislation can be expected to increase discounted reserve levels for known claims between \$7.0 and \$9.0 million. To the extent additional claims emerge the cost estimates would be higher.

Rate Level Impact: The proposal will serve to increase the costs associated with future claims. Currently, it is estimated that 40 Permanent Total Disability claims which ultimately convert into ABP claims will arise out of each injury year. Based on this assumption, the proposal will serve to increase statewide premium rate levels between 1.0% and 1.5%.

DATE: January 30, 2007

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-3760	<b>Date Prepared:</b>	01/30/2007

Date: 2-5-07  
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1345

House Industry Business & Labor Committee

Check here for Conference Committee

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

Action Taken DO Pass

Motion Made By Rep Amerman Seconded By Rep Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep. Amerman	X	
Vice Chairman Johnson		X	Rep. Boe	X	
Rep. Clark		X	Rep. Gruchalla	X	
Rep. Dietrich		X	Rep. Thorpe		
Rep. Dosch		X	Rep. Zaiser	X	
Rep. Kasper		X			
Rep. Nottestad		X			
Rep. Ruby		X			
Rep. Vigesaa		X			

Total Yes 4 No 9

Absent 1

Floor Assignment Rep Vigesaa

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

Date: 2-5-07  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1345

House Industry Business & Labor Committee

Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Rep Dietrich Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman		X
Vice Chairman Johnson	X		Rep. Boe		X
Rep. Clark	X		Rep. Gruchalla		X
Rep. Dietrich	X		Rep. Thorpe		
Rep. Dosch	X		Rep. Zaiser		X
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 9 No 4

Absent 1

Floor Assignment Rep. Vigesaa

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

**REPORT OF STANDING COMMITTEE**

**HB 1345: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1345 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1345

**Mr. Chairman and members of the House Industry, Business and Labor Committee, for the record my name is Ed Christensen. I live in Bismarck, and am an injured worker. Thank you for the opportunity to present my case before your committee.**

**I am testifying today on House Bill 1345. This bill gives increased benefits for injured workers on permanent total disability when they reach 65-years-old. This bill returns funding for these folks, which was lost in the late 1990's. There is over one-billion dollars in WSI's bank account right now. I think this legislation should get a fair chance.**

**If this bill was passed, it would go into effect immediately. The reason for this is simple. The cost for nearly everything has gone up in recent years. That includes prices for groceries and energy. This legislation is only fair to permanent injured workers who are of retirement age. They need the help to sustain a decent quality of life.**

Claims with Outstanding Comp Reserve by Accident Year and Last Benefit Type, as of December 27, 2006

Accident Year	Additional Benefit Payable	Death Related Benefits	Permanent Total Disability	Rehab Related Benefits*	Temporary Partial Disability	Temporary Total Disability	Grand Total	Known Catastrophic Claims
1977 & Prior	1	106	121		3	2	233	14
1977-78		5	19		1		25	3
1978-79		8	10				18	0
1979-80		4	16		1		21	2
1980-81		5	21		1		27	1
1981-82		5	30		1		36	2
1982-83		6	27		1		34	1
1983-84	1	2	33		1		42	1
1984-85		2	49		2	4	56	0
1985-86		3	51		8	3	59	0
1986-87		3	68		4	4	79	3
1987-88		3	63		7	2	75	1
1988-89		1	74		12	5	92	1
1989-90	3	5	75		15	4	104	0
1990-91		3	65		9	10	90	2
1991-92	4	2	44		4	7	61	1
1992-93	2	3	48		5	9	68	0
1993-94		6	48		4	6	64	1
1994-95		3	40		9	11	63	0
1995-96	6	13	15		6	6	48	1
1996-97	6	6	21		7	6	46	1
1997-98	2	10	10		5	8	36	1
1998-99	6	5	16		6	16	57	1
1999-00	8	9	16		6	16	64	1
2000-01	6	7	10		2	18	65	0
2001-02	3	8	6		8	32	79	4
2002-03	1	8	9		5	38	85	0
2003-04		8	3		9	51	107	0
2004-05	1	8	1		8	59	115	0
2005-06		7	7		4	152	221	0
2006-07		6	6		48	242	296	0
<b>Grand Total</b>	<b>50</b>	<b>267</b>	<b>1009</b>	<b>57</b>	<b>372</b>	<b>711</b>	<b>2466</b>	<b>44</b>

\*Includes Post Rehab Benefit, Rehab Job Search, Rehab Total and Rehab Partial Allowance



#2

**2007 House Bill No. 1345**  
**Testimony before the House Industry, Business and Labor Committee**  
**Presented by: Tim Wahlin, Staff Counsel**  
**Workforce Safety and Insurance**  
**January 31, 2007**

Mr. Chairman and Members of the Committee:

My name is Tim Wahlin and I am Staff Counsel with Workforce Safety and Insurance (WSI). On behalf of WSI and its Board of Directors to testify on HB 1345 which seeks to amend the schedule regarding the calculation of Additional Benefits Payable (ABP). The WSI Board of Directors has taken a neutral position on this legislation as it proposes prospective changes to the workers' compensation benefit scheme and the Board believes future changes are best left to the Legislature to determine.

In North Dakota, workers' compensation wage benefits end at the time of retirement eligibility and then convert to a post-retirement benefit known as an Additional Benefit Payable (ABP). Recognizing that an injured worker permanently and totally disabled at a young age lost the opportunity to sufficiently build a retirement base, this statute was passed to help compensate for that shortfall. The amount of the additional benefit is a percentage of the weekly payment that was discontinued at time of retirement.

In most instances, the duration of the ABP is commensurate with the length of time the worker was disabled before retirement. If the disability period before retirement eligibility was 15 years, then the ABP would be payable for 15 years after that date. As indicated in the table below, the longer the disability period before retirement, the larger the additional benefit payment after retirement. Catastrophically injured workers are entitled to 100% of their original rate until the date of their death. Additionally, in order to allow ABP recipients to keep as much of the payment as possible, the statute was amended in 2005.

<b>YEARS</b>	<b>1 - 3</b>	<b>3 - 5</b>	<b>5 - 7</b>	<b>7 - 9</b>	<b>9 - 11</b>	<b>11 - 13</b>	<b>13 - 15</b>	<b>15 - 17</b>	<b>17 - 20</b>	<b>20 +</b>	<b>CAT</b>
<b>PERCENTAGE</b>	<b>5%</b>	<b>10%</b>	<b>15%</b>	<b>20%</b>	<b>25%</b>	<b>30%</b>	<b>35%</b>	<b>40%</b>	<b>45%</b>	<b>50%</b>	<b>100%</b>

HB 1345 seeks to pay the ABP benefit based on thirty percent of an injured employee's compensation rate if the length of disability was at least one year but less than ten years, and at sixty percent if the length of disability was at least ten years. The base premise for workers' compensation benefits is intended to compensate for the loss of wages due to the work injury. HB 1345 marks a significant ideological shift from this base premise and instead creates a benefit more comparable to a retirement benefit.

If approved, it is anticipated HB 1345 would increase discounted reserve levels to between \$5.5 and \$7 million. The premium rate level impact is anticipated to be approximately one-half-of-one percent.

This concludes my testimony. I would be happy to answer any questions you may have at this time.