

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2093

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2093
1/11/11
12741

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the definition of mental injuries arising from a mental stimulus: and to provide for application.

Minutes:

Testimony Attached

Chairman Klein: Reconvened the meeting on SB 2093.

Bryan Klipfel, Director of Workforce Safety & Insurance presented written testimony in support of SB 2093. See Attachment #1.

Senator Murphy: It seems similar to PTSD, which we do pay for on the federal level quite a bit. Is that correct?

Bryan Klipfel: Yes, it could be considered part of that, Post Traumatic Stress Disorder.

Senator Schneider: I have a series of questions. First concern about this legislation is the tie to violent crime. For example a firefighter who sees a friend become injured or become burned suffers from PTSD, that fire fighter would not be covered under this statute, correct?

Bryan Klipfel: That is correct.

Senator Schneider: Does WSI have intention of covering first responders either under this legislation or on a separate bill?

Bryan Klipfel: That legislation has been worked on in the past, mainly for first responders and medical people. We are working with some current legislators on some bill drafts for that also. We are getting some information from the legislators and we sent it to our actuaries and we will see what it is going to cost. We will present that to this body. If the cost is something the employers want to pay, then we will go forward with it. The cost is one of the factors of whether the legislation will move forward or not.

Senator Schneider: My next concern is in regards to the pre-existing language, for example; a Vietnam veteran who has PTSD, and then becomes a police officer who becomes a victim of a violent crime. Even though his PTSD was previously controlled it

becomes an issue again and potentially debilitating. That individual would be barred from receiving help

Bryan Klipfel: The pre-existing language is in there so we would have to take a look at how long prior to this the PTSD or the treatment for the mental injury was taking place. We would take a look at those factors and make a determination.

Senator Schneider: Would WSI be opposed if the committee did some re-drafting and looked at some of those factors that you just identified?

Bryan Klipfel: We can work with you on that.

Senator Schneider: Finally, would WSI have any problem making this retroactive to cover the claim that gave rise to this bill?

Bryan Klipfel: We would have to discuss that. I can't say right off-hand.

Chairman Klein: I believe retroactivity has been an issue we have looked at years upon years because we open up a huge can of worms. The future is what we try to look at. My question would be: This seems to be an extra-ordinary circumstance. Does it happen more than we think?

Bryan Klipfel: It probably doesn't happen that often in this state, but we really don't know because we never have covered before and it never has been brought forward.

Senator Laffen: The benefits paid out are for counseling, etc; they are not cash payments, right?

Bryan Klipfel: That is correct. It is for counseling, medication, some wage loss if that's the case. We do have a cap on the total benefit cost and the duration.

Chairman Klein: So the total benefit cap is \$15,000.00 and the duration is 6 months, whichever comes first or..?

Bryan Klipfel: That is correct, whichever comes first.

Chairman Klein: So at the end of 6 months and we have only used up \$10,000.00 and we have provided counseling, medication, lost wages but we have only spent \$10,000.00, that's the way it's going to be?

Bryan Klipfel: That is correct.

Senator Larsen: What were the criteria to set the limit at 6 months?

Bryan Klipfel: We have never dealt with this mental/mental injury before. We looked at some of our mental health claims we have had in the past that were linked to a physical injury claim. It seemed that 6-9 months was a proper time frame. The \$15,000.00 was a matter of what we thought was fair.

Senator Larsen: Those six months is not in regard to what other insurance companies will cover. An example would be rehab. I get 28 days to get better.

Bryan Klipfel: It was not compared to anything. It was just based on some information we had.

Senator Nodland: Who determines who is eligible?

Bryan Klipfel: It would be like any other injury. The claim would be filed, the doctor would give WSI his information and WSI would go by what the doctor reports, or if there is a discrepancy there WSI could have independent medical exams done.

Senator Schneider: Have you seen any other states put caps in place?

Bryan Klipfel: We can look into that and get the information to you.

There was discussion about the variety of laws different states have enacted on this issue.

David Boeck: Works for the Protection and Advocacy Project. With PTSD a six month limit is basically no coverage. PTS might begin right away but it might not occur for some time and it might take a very long time to advance toward recovery. I am also concerned about the limit. The coverage will only include people when the condition did not pre-exist. We have programs in our state, trying to encourage people with disabilities to enter the workforce. We have been successful at doing that. It is not really fair to exclude these people who have a mental illness or a PTSD or a traumatic brain injury from coverage that is being extended to other people. It doesn't seem to me to be legitimate criteria. It would be easy for someone to look at a victim and say, well obviously you had prior anxiety issues. If you are being threatened with a crime, anxiety might show up and disqualify you from coverage.

Chairman Klein: David, are you in support of the bill? Or are you in support but have a lot of reservations?

David Boeck: I have a lot of reservations. I would like to see some amendments to the bill.

Chairman Klein: We have never had the law. There is a lot of resistance out there to this whole issue. My concern is if we get too many ornaments on this thing, it is going to not make it. We have to make every attempt to get something passed.

Senator Murphy: You did not state your qualifications. Are you a psychiatrist, psychologist or counselor?

David Boeck: I am a lawyer and I work for the Protection and Advocacy Project. The Protection and Advocacy Project advocates on behalf of people with disabilities and works to protect them from abuse, neglect and exploitation.

Dave Kemnitz, President of ND AFL-CIO spoke in support of SB 2093. The bureau needs to be able to address these situations and without some enabling legislation it ties their hands. Services to claimants, human needs need to be met. I believe this is the proper start.

Chairman Klein: I agree with you. We certainly don't have anything currently and without anything they can't move forward.

Veronica Zietz, the Executive Director at The Arc of Bismarck present testimony in support of SB 2093. See attachment #2.

Bill Shalob representing ND Chamber of Commerce presented testimony in opposition to SB 2093. See attachment #3. Injuries arising from a mental stimulus provide a particular problem because there is no physical manifestation of the claimed injury, nor are the mental stimulus objectively measureable, all things we try to do in WSI claims yet each individual reacts differently to stimuli. As a result benefits are unpredictable, leading to increased litigation and higher cost. That is a reason not to pass the bill. You already saw what happens here. The gentleman from Protection and Advocacy here says we already want to expand this bill on fairness issue and we would like the door open to craft... We believe that's exactly what this bill does. It's going to lead to things..... And while we're sympathetic to it and if the legislature wants to codify something based on one incident we should just have a whatever-her-name-is bill and give her some money. But we aren't; we are trying to put something in WSI statute to cover things that happen once and we really don't think that is a good way to legislate. You also heard the time and money in this bill are not adequate. I think we are heading to places we don't want to get. I urge a Do Not Pass for this bill.

Senator Schneider: Would you be opposed to separate legislation or an amendment to this legislation that would provide protection for fire fighters and other first responders who suffer mental injury through the course of their work?

Bill Shalob: First responders and the presumptions regarding police and fire fighters have always been handled as separate issues in those bills and the Chamber and the employer groups have not ever opposed any of those presumptions. We have left that policy decision strictly to the decision to be made by the legislature. We have not taken a position on any police, fire, any of those bills.

Senator Schneider: You wouldn't be opposed?

Bill Shalob: We haven't in the past. We would like to see the bill first.

Chairman Klein: Closed the hearing.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2093
January 26, 2011
Job Number 13422

Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to the definition of mental injuries arising from a mental stimulus: and to provide for application.

Minutes:

Discussion and Vote

Chairman Klein: He prepared amendments, he had visited with WSI and asked if it was understood how this issue works, not really. He explained his amendments that would allow this to stay alive a bit longer and so they could see and provide for discussion. The word shall consider studying was put in.

Senator Andrist: Moved a do pass on Senator Klein's amendment.

Senator Laffen: Seconded the motion.

Discussion

Senator Schneider: Felt that this is an idol act. He is torn between whether a study is better or worse. His fear would be that WSI has already studied this and this is their response. He felt they will see a similar response in two years. Is it better to have something in the code that could be amended in future sessions or to study and come back with this?

Senator Larsen: He is comfortable with a study.

Senator Murphy: Feels this is inadequate, if you want to deal with people with Post Traumatic Stress Disorder and reactions to their problems. Felt it doesn't show up sometimes for more than six months, which would be at the end of the treatment period offered by this bill. Agrees this bill does nothing effective and certainly doesn't do enough from his respective.

Chairman Klein: He stated that he is trying to foster this through the Senate and is trying to find a way to provide some time so it can be looked at further.

Senator Laffen: Is this the first time it has been studied?

Chairman Klein: It is his understanding that they have not effectively been able to dig into this and find a solution.

Roll Call Vote on Senator Klein's Amendment: Yes-6 No-1

Senator Andrist: Do pass as amended.

Senator Nodland: Seconded the motion.

Roll Call Vote: Yes-6 No-1

Senator Klein to carry the bill

FISCAL NOTE

Requested by Legislative Council
12/22/2010

Bill/Resolution No.: SB 2093

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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 provides a limited award of benefits for intended victims of a violent crime who sustain a resulting mental injury arising from a mental stimulus. Benefits would be limited to \$15,000 or six months from date of injury, whichever occurs first.

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
2011 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2093

BILL DESCRIPTION: WSI Mental/Mental Bill

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation provides a limited award of benefits for intended victims of a violent crime who sustain a resulting mental injury arising from a mental stimulus. Benefits would be limited to \$15,000 or six months from date of injury, whichever occurs first.

FISCAL IMPACT: The proposed legislation will serve to provide benefits under very unique circumstances. With the specified limitations to the benefits awarded, we don't anticipate the proposed legislation to have a significant impact on statewide premium levels.

DATE: December 17, 2010

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.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	12/23/2010

January 25, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2093

Page 1, line 1, replace "amend and reenact paragraph 10 of subdivision b of subsection 10 of" with "provide for a legislative management study of workers' compensation coverage for mental injuries arising from mental stimulus."

Page 1, remove lines 2 and 3

Page 1, replace lines 5 through 20 with:

"SECTION 1. WORKERS' COMPENSATION COVERAGE OF MENTAL INJURIES - LEGISLATIVE MANAGEMENT STUDY. During the 2011-13 interim, the legislative management shall consider studying the feasibility and desirability of providing workers' compensation coverage for a workplace injury that is a mental injury arising from a mental stimulus. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Date: 1/26/2011
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2093

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Andrist Seconded By Senator Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider		✓
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

Date: 1/26/2011
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2093

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider		✓
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Klein

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

REPORT OF STANDING COMMITTEE

SB 2093: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2093 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "amend and reenact paragraph 10 of subdivision b of subsection 10 of" with "provide for a legislative management study of workers' compensation coverage for mental injuries arising from mental stimulus."

Page 1, remove lines 2 and 3

Page 1, replace lines 5 though 20 with:

"SECTION 1. WORKERS' COMPENSATION COVERAGE OF MENTAL INJURIES - LEGISLATIVE MANAGEMENT STUDY. During the 2011-13 interim, the legislative management shall consider studying the feasibility and desirability of providing workers' compensation coverage for a workplace injury that is a mental injury arising from a mental stimulus. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2093

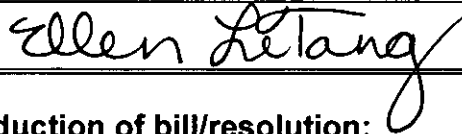
2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2093
March 7, 2011
15040

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Legislative management study of workers' compensation coverage for mental injuries arising from mental stimulus

Minutes:

Chairman Keiser: Opens the hearing on SB 2093.

Anne Jorgenson Green~Staff Counsel for WSI: (See attached testimony 1)

Representative Vigesaa: Has this been a study previously and if so, when was it?

Anne Green: I'm not sure.

Chairman Keiser: Further questions?

Representative Vigesaa: Could you explain where current law permits the payments of mental injury in limited circumstances; could you explain what is currently available to an injured worker?

Anne Green: Mental injuries are currently compensable if there is a physical injury that results in some sort of subsequent mental injury.

Representative N Johnson: You said that SB 2093 was to expand the compensability of mental injuries to injured workers who are the intended victim of a violent crime, would that be a crime on the job or at any point?

Anne Green: You would have to be the intended victim of a violent crime while in the scope of your employment.

Chairman Keiser: Anyone else here to testify in support of SB 2093, in opposition, in the neutral position, closes the hearing on SB 2093.

2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2093
March 7, 2011
15044

Conference Committee

Committee Clerk Signature

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Legislative management study of workers' compensation coverage for mental injuries arising from mental stimulus

Minutes:

Chairman Keiser: Opens the hearing on SB 2093. I did ask for a fiscal note for SB 2093 and it is a study with a fiscal note on it. I asked the agency for a fiscal note because if we did ever approval a mental/mental and their folks said that it would be literally impossible for them to project the costs until they had some history on it.

Representative Vigesaa: The only question not answer from the hearing was this studied before.

Chairman Keiser: It's been discussed, it's been in interim committees and we have never brought forward legislation to support mental/mental. Once you open this, the impact on the fund, I believe, will be more significant than the physical injuries.

Representative Ruby: My view, the feasibility is up to the subjection of who you are talking to and the same with the desirability.

Representative Ruby: Moves a Do Not Pass.

Representative Frantsvog: Second.

Chairman Keiser: Further discussion?

Roll call was taken on SB 2093 for a Do Not Pass with 9 yeas, 4 nays, 1 absent and Representative Vigesaa is the carrier.

Date: March 7, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2093

House House Industry, Business and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Frantsvog

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman		✓
Vice Chairman Kasper	✓		Representative Boe	Ab	
Representative Clark	✓		Representative Gruchalla		✓
Representative Frantsvog	✓		Representative M Nelson		✓
Representative N Johnson		✓			
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

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

SB 2093, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2093 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2093

#1

2011 Senate Bill No. 2093
Testimony before the Senate Industry, Business, and Labor Committee
Presented by Bryan Klipfel, Director
Workforce Safety & Insurance
January 11, 2011

Mr. Chairman, Members of the Committee:

My name is Bryan Klipfel, Director of Workforce Safety & Insurance (WSI). I am here to testify in support of Senate Bill 2093.

Under current law, mental injuries arising from a mental stimulus are not compensable when there is no physical injury. Senate Bill 2093 would compensate certain mental injuries even if the employee does not sustain a physical injury. WSI proposes to expand the compensability of mental injuries to those injured workers who are the intended victim of a violent crime.

The publication *Workers' Compensation Laws*, (a joint publication of IAIABC and WCRI), January 2010, 3rd Edition, surveyed the states and US Federal Programs regarding the issue of providing coverage of mental injury claims with no accompanying physical injury. Eighteen jurisdictions do not pay benefits. Thirty-four jurisdictions do pay benefits, many with limiting language. In Alaska, for instance, mental stress is covered if work stress was extraordinary and unusual compared to others in a comparable work environment. Under Arkansas and Colorado law, mental injuries are generally not payable but an exception exists for victims of violent crime. In Nebraska, first responders may claim mental injury without a physical injury but only if the mental injury was the result of extraordinary and unusual conditions as compared to normal conditions. Oklahoma pays mental injury claims for sexual assault only. Utah law permits mental stress claims without a physical injury, but only for extraordinary mental stress from a sudden stimulus. It is clear that other legislative bodies grappled

with crafting a narrow statute while providing coverage in compelling factual scenarios.

North Dakota's lawmakers have not deviated from their position in 1995, which precludes the payment of a mental injury where no physical injury is present. Mental claims are challenging to adjudicate and difficult to medically manage. They cannot be easily identified or uniformly treated like a broken leg or a torn rotator cuff. Their implications and repercussions are often impossible to separate from the fundamental makeup of a person, their prior personal struggles, family and marital challenges or other mental health issues. Claims of mental injury arising from a mental stimulus provide a particular problem because there is no physical manifestation of the claimed injury, nor is the mental stimulus objectively measurable since each individual reacts differently to stimuli. As a result, benefits are unpredictable leading to increased litigation and higher costs.

As other jurisdictions have done, the bill before you today concentrates on an area of mental stress that is understandably traumatic and extraordinary, that is compensation for the intended victims of violent crimes. Senate Bill 2093 provides payment of benefits when the following requirements are met:: 1) the mental injury is a direct result of being the intended victim of a violent crime, 2) the mental injury must be determined to be at least 50% of the cause of the condition as compared with all other contributing causes, and 3) the mental condition does not preexist the injury.

The bill also provides a definition of violent crime and limits cumulative benefits to fifteen thousand dollars or six months from the date of injury, whichever occurs first.

Senate Bill 2093 provides benefits to workers who suffer a mental injury from the experience of being the intended victim of a violent crime. That concludes my testimony. I'd be happy to answer any questions that you may have.



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Testimony SB 2093
Industry, Business & Labor Committee
January 11, 2011

Good morning Chairmen Klein and members of the Industry, Business and Labor Committee. My name is Veronica Zietz (#99); I am the Executive Director at The Arc of Bismarck and am here today representing both The Arc of Bismarck and The Arc of Cass County. The Arc is an organization that provides education and advocacy to people with disabilities to foster empowerment and full inclusion in the community.

Senate Bill 2093, acting to change North Dakota Century Code related to Workforce Safety Insurance definitions of "Compensable Injuries" is a step in the right direction, but doesn't adequately provide benefits. Altering the definition of mental injury and allowing an employee to claim benefits due to a mental injury incurred due to a violent crime is a positive change. However, I am concerned with the language used, which requires the employee in question to be the "intended" victim. I believe the word "intended" should be removed from the bill, because whether an employee is the intended victim or not that employee's mental health will likely be negatively impacted by a violent crime.

Additionally, the sentence allocating benefits should be reviewed. A limit of \$15,000 in benefits and six months time are not at all adequate to cover possible mental injuries. For instance, if a person is robbed or assaulted a likely injury would be Post Traumatic Stress Disorder (PTSD). Treatment for PTSD has an average yearly cost of \$20,000 or more and this condition can last years and even lifetimes. I believe that employers through Workforce Safety Insurance should provide adequate care for this type of mental injury incurred on the job.

I would like to ask the committee to consider making an amendment to SB 2093; first removing the word "intended" from line 8, and second to increasing the monetary benefits and time limit would be positive changes for North Dakota workers.

Thank you for your time and attention.

#3



Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
SB 2093
January 11, 2011

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the North Dakota Chamber of Commerce, the principal business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this and all Workforce Safety hearings we are also representing five local chambers with over 5,000 members and seven employer associations. I have attached a list of those parties to my testimony for this hearing only. As a group we stand in opposition to SB 2093 and urge a do not pass from the committee on this bill

It is difficult for us to oppose this bill considering the circumstances that generated this response. We are sympathetic to the person involved and think WSI did a reasonable job trying to draft a law that gives a benefit and tries to limit the fund's liability. However, we believe that this initial move to compensation for mental injuries is a lawyer's dream and this step will lead to expansions to places we do not want to go in the courts or in future legislative sessions. Questions of injury and degree of injury in mental/mental cases will always be highly subjective and should be avoided for that reason. The current policy that they are not a part of WSI benefits should be upheld and this bill rejected.

Thank you for the opportunity to appear before you today in opposition to SB 2093. I would be happy to answer any questions.

THE VOICE OF NORTH DAKOTA BUSINESS

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**2011 Engrossed Senate Bill No. 2093
Testimony before the House Industry, Business, and Labor Committee
Presented by Anne Jorgenson Green, Staff Counsel
Workforce Safety & Insurance
March 7, 2011**

Mr. Chairman, Members of the Committee:

My name is Anne Green, Staff Counsel with Workforce Safety & Insurance (WSI). I am here to provide information on Engrossed Senate Bill 2093.

On January 11, 2011, a hearing with the Senate Industry, Business, and Labor (IBL) Committee took place regarding Senate Bill 2093, which proposed to compensate certain mental injuries in the absence of a physical injury. Current law permits the payment of a mental injury in limited circumstances but requires a physical injury as a threshold matter. SB 2093 proposed to expand the compensability of mental injuries to injured workers who are the intended victim of a violent crime. SB 2093 provided a definition of violent crime; a cumulative benefit of fifteen thousand dollars or six months from the date of injury; and denied a claim for benefits that involved pre-existing conditions.

On February 1, 2011, the Senate IBL Committee amended Senate Bill 2093 into a legislative management study of workers' compensation coverage for mental injuries arising from mental stimulus. On February 2, 2011, Engrossed Senate Bill 2093 was adopted and passed by the Senate, yeas 44 nays 2.

That concludes my testimony. I'd be happy to answer any questions that you may have.