

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB1001

Chairperson: Senator Burke Harr

Committee: Business and Labor

Date of Hearing: February 08, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1001 would provide definitions for "loss or loss of use" (permanent loss of physical function) and "member" (an arm, leg, ear, eye, or a nose) for purposes of a loss of earning capacity determination when an injured employee suffers the loss or loss of use of more than one member or parts of more than one member.

LB 1001 is designed to clarify the provisions of Neb.Rev.Stat. §48-121 relating to the circumstances under which the Workers' Compensation Court can award benefits based upon loss of earning capacity, when a loss or loss of use of more than one member or parts of more than one member have resulted from the same accident or illness.

The Nebraska Supreme Court in *Rodgers v. Nebraska State Fair*, held that it was not necessary for an injured employee to sustain functional loss in the form of permanent physical restrictions to more than one scheduled member in order to receive benefits based on loss of earning capacity. By defining loss or loss of use to mean permanent loss of physical function, LB 1001 will clarify that permanent restrictions to each scheduled member must exist in order for the loss of earning capacity determination to apply.

The Nebraska Workers' Compensation Court in *Wermers v. Avis R. Andrews* held that injuries to multiple parts of a single scheduled member constituted a two-member injury for purposes of the loss of earning capacity determination under Neb.Rev.Stat. §48-121. By defining, in part, that a member means an arm or a leg, LB 1001 will require injuries to two separate and distinct scheduled members for the loss of earning capacity determination to apply.

Principal Introducer: _____

Senator Laura Ebke