

Thank you for all the time this morning debating SB 2109. I know there are some complex issues included in it.

I wanted to follow up with a few things.

- There were more conversations behind the scenes with the Association of Justice (Formerly the ND Trial Lawyers Assoc) regarding a variety of issues related to this bill and its contents. I and Jodi Bjornson, general counsel, met with them at length on at least 3 occasions. However, talks broke down because the Assoc. of Justice was set on changing the law to make WSI pay attorney fees regardless of whether the attorney representing an injured worker loses or wins their appeal. They wanted a \$10,000 guarantee for attorneys – win or lose. The law states that we pay up to \$7,800 in attorney fees is an Injured Worker **prevails**. This helps to reduce the number of claims that proceed to litigation by making sure attorneys are only bringing cases they believe they can win. ND has the lowest litigation rates in the nation in terms of worker's compensation.
- We are fine with removing the escalator clause on the death benefit if that is causing some concern. I am fully aware of Rep. Ruby's stance on automatic escalators. The recommendation of a built-in escalator came from our legislative review with the prior administration.
- As Tim mentioned, our system functions well when we have clearly defined laws so that all claims are adjudicated under one understanding. Ms. Hall's suggestion that there should be some "discretion" in how we adjudicate claims will cause inconsistency and only lead to increased litigation.
- And yes, the amendment to move language from Admin Rule to Statute was reactionary to the ND Supreme Court decision that came in January. The Court had previously upheld the administrative rule, so we were floored when they gave their ruling on the Riley case and provided guidance that if WSI is to continue adjudicating claims in the manner it has been that needs to be spelled out in Title 65.

If you have any questions prior to your committee work on 2109, please feel free to reach out. Also, we would welcome the opportunity to be present during committee work in the event your members have additional questions.

Thank you again,

Art

Art Thompson | WSI Director
701.328.6024 | 800.440.3796 ext 328.6024



Follow us on [Facebook](#) and [LinkedIn](#)