

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1460

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1460

2007 HOUSE STANDING COMMITTEE MINUTES


Bill/Resolution No. 1460

House Industry, Business and Labor

☐ Check here for Conference Committee

Hearing Date: 5 February 2007

Recorder Job Number: 2854

Committee Clerk Signature	
---------------------------	---

Minutes:

Representative Bob Skarphol, District 2, introduced the bill. As a member of the Legislative Audit and Fiscal Review Committee and listening to the audits that took place in the last interim, it became somewhat apparent to me that we need to address a couple of issues with regard to the board. As the prime sponsor of the bill that created the board back in the '97 session, I have some strong feelings about the board and its evaluation.

I wanted two particular problems to be addressed: 1) the need for some extra people on the board with regard to insurance, and 2) the need for some technology. The health care industry needs to be represented more adequately on the board so they could have input as to the needs of the provider. Lastly, this addresses the terms of office. I think a six-year term is what we need. It can take at least two years to get up speed with all the issues and subtleties with regard to WSI, and then you will get four years of good service out of an individual. I think it's important we have rotation of the board. Representative Carlson has an amendment that I am fully supportive of and believe is appropriate.

To understand where we were in 95-97 when we did all this work, it was the opinion of the IBL Committee to take care of legitimately injured workers and we do it well and we insure they are more than adequately taken care of. We also wanted to make sure that we did not have individuals taking advantage of the system. That's a very fine line to walk and very difficult

balance. I believe it takes a dedicated workforce in that agency to make that happen. I

believe we gave the agency the tools they need to do that. We did that with the personnel system that was passed in '95. I'm not entirely convinced that that personnel system is still functioning in the way we intended. I hope there is some way for this committee to make adjustments to what needs to be done there. We want a transparency. We wanted that agency to be wide open to public scrutiny within the guidelines of privacy that are required in regard to medical records and those kinds of things. I think if it was as transparent now as it was then, we would have a lot less controversy now.

Affordability was an issue. But it was the last issue that was of primary importance to us at that time and I think it still needs to be so today. The premiums that our employers pay are critical to insuring our injured workers are taken care of. I think it should be the last consideration in the priority list.

Representative Al Carlson, District 41, distributed a proposed amendment (70708.0102, attached). When we established the board some of us members that were active in the reform were appointed to board in the interim and I was the interim chairman until the actual board was appointed. We were very involved in the concept of what was the role of the board and how active should the board be and what kind of model should the board use. Our history goes deep. Representative Skarphol and I were both on that board. We still believe today that board concept is the right concept. It took an override of the governor's veto to get us that board. This is not a matter to be taken lightly. I still very strongly believe that a good, strong board is the way to nonpoliticalize the process of workers compensation. We are a monopoly. There are some here that are employers and we pay premiums. There is nothing more important to me than the health and welfare of employees and that they are properly treated and that they get their checks when they are laid up and can't work. Those are the issues we address each and every session. I still feel this is a good board but sometimes you

have to step back and say—how could the board be better? The amendments before you make some changes. The biggest change is that one member represents the health care industry and must be the CEO or CFO. Another member represents the information technology industry and must be a CEO or CFO of a technology related business. We think these additions are important to the board. One member represents the insurance agency and must be a CEO or CFO of an insurance related business. The reason we ask for those is that we want the active players in the business to be on the board. We also wanted to take away the tie where there would be a conflict between the executive branch of government and this board. We have not agreed on what should be the term of the board should be. What is their ability to a time commitment to a job like this? Consistency of the board, understanding the workings of the board is important and a strong board is important. I cannot reiterate enough that I believe a board is the solution to running Workman's Comp.

Representative Amerman: The new members you are putting on, aren't they employers? This is the same language we use from industry.

Representative Carlson: They are employers, but they also have a certain area of expertise. This is something we developed years ago and we are taking it a step further; and you, as a committee, have the option to look at the balance on that board and say what is or isn't the right balance. We believe these are good additions to the board. It expands the board and makes it more responsive.

Representative Skarphol: The statute today says that every one of the employers on that board is supposed to come from the three categories of principal owner, CEO, or CFO. In listening to audits it became apparent that if you have that expertise on the board you are going to get questions that are more germane to workforce safety. They are looking at a \$20.million program and who on that board has enough expertise to adequately address those

questions. It takes a high level of expertise in technology to come forward with the right questions to insure that those projects are adequately planned and implemented.

Representative Zaiser: Getting at the balance in terms of workers executive/owners--there used to a slight majority of owners/CEOs/ CFOs but adding these additional members to the board further adds to that majority.

Representative Carlson: What is the right balance? We have always had that argument. I believe the actively involved--the man who writes and signs the last check should have some input and he should hear what is being said at those meetings. I think the assumption is that because of this no one is going to be taken care of and I think that's a long way from truth.

Representative Zaiser: You put some thought into this before you proposed the bill and amendment. Did you consider that this be a further imbalance?

Representative Carlson: I did put some thought in it and proposed it still. If we go back to the original board we had a lot of discussion over the fact that we have a very, very small unionized workforce in ND but yet we made sure there was a representative of those workers on the board. The balance is a decision that is legislated. If someone has a better idea they should bring it forward. Our intent in this bill is to add some more expertise to that board so we have people on the board that understand the issues that have created some of the problems.

Representative Zaiser: Did you consider the possibility of replacing some of the members that represent business with these specialized people.

Representative Skarphol: No we didn't. I didn't take time to check the board minutes to see if there was a consistent division of votes with regard to the division of the board among employers and employees. I suspect if I would have most of the votes would probably have been unanimous in consensus. If this committee sees reason to increase the employees on

that board, I don't see any problem with that. I do think it is important to have these three particular areas represented based on what has transpired recently.

From someone in the audience: There is a bill in the Senate that does add one more employee to the bill.

Sandy Blunt, executive director, WSI, and representing the chairman and board of directors: The board desires to remain independent and free of politics. As amended, the board of directors supports this bill and adds expertise to the board.

Representative Thorpe: How many industry employers are on the board now that would meet these qualifications? If we add these members can we take some off?

Blunt: There 6 from business, 3 from an injury profession, the governor appoints 2 employees, 1 from health care industry, 1 employer at-large. As to removing individuals, I am not able to answer that. The board in place is a strong board and their belief is that if there is a desire to supplement with a greater skill set then their desire would be to supplement rather than remove current representatives.

Vice Chairman Johnson: Has the board talked about length of term? Do you have an opinion of length of term?

Blunt: It was 6 years at one time. I have talked to board members appointed to a six-year term. They were very wary to get on to the board. That is a significant commitment to make to a very complex board. Personally, I would advocate for a four year term simply because it would be easier to recruit qualified members.

Vice Chairman Johnson: Would like us to limit it to a four year term.

Blunt: It's currently three four-year terms. I think that would be appropriate if they desired to stay that long.

Representative Zaiser: I think you are aware that one is the amendment and one is the bill. Representative Skarphol thought a six-year term was advantageous. If someone wanted to

resign, there is no law that says you cannot. I assume members when they are recruited are aware of that.

Blunt: Yes, they can. That causes turnover which causes changes in the board's structure. It will take you at least two years to come up to speed and understanding this system

Representative Zaiser: That is left to the legislature. My opinion is that it would be difficult to recruit qualified candidates.

Representative Amerman: Could you give me an idea of if the chief information and the insurance commission are ex-officio members, what would they be doing? What input would they have?

Blunt: Ex-officio has full rights of the committee. There would be changes in membership depending on election results.

There was no testimony in opposition to the bill.

David Kemnitz, president of the ND AFL-CIO, testified neutral on the bill. We are neutral for several reasons. The amendments are new to us

Chairman Kaiser: We will hold this bill until tomorrow so you have a chance to review the amendments.

Kemnitz: Last week we testified before the board to change the voting percentage change for a policy change and what you need for a quorum. This expands the employer membership substantially. I don't know if there is a sentiment to expand the employee side of that. We would like you to consider a 75% or 66% majority vote to initiate or change policy in that it deepens the discussion and debate and puts the emphasis on and bringing people to conclusion. If you expand on this side of this there is a bias.

The other is the method of governance mentioned. It seems the non-profit model does not fit what this board does. How can I as a board member speak to you about something amiss

under those rules? If you would look at the bylaws you would be surprised as how they are operating.

Representative Zaiser: There was reference that most of the decisions made by the board were unanimous. From your perspective and knowledge is that the case?

Kemnitz: We have seen lots of unanimous, but it is changing. We think there ought to be deeper debate and sharper positions taken.

Representative Zaiser: If you had your druthers, how would you change the board?

Kemnitz: As a representative democracy and to remove bias, you have an even number of employer/employee reps.

Representative Kasper: Can you clarify for me the Carver Method of governance? What do they use to get to decision making?

Kemnitz: It's the non-profit model. The difference from the profit model in that you are on the board as an advisor.

Representative Kasper: With the Carver Method of governance at WSI, is it impeding the board members to have full impact, full discussion and to work with other board members during their members? I hope that is not what you are implying.

Kemnitz: That is not what I'm trying to imply. The point I'm trying to make, if you were to subpoena one of those board members and if they were in the minority of the vote that the board had taken and you asked them what is their position; according to their bylaws they are forbidden to testify to you something different than what the board policy was voted on. That concerns me.

Representative Kasper: In the law under the board powers and duties, 65-02-03.3, no where in here does it say what you just said. It may be a policy, but the law does not prohibit them from making that statement. If we have in statute their powers and duties how could they not be able to come to the podium and express their viewpoint publicly?

Kemnitz: If this is not true, then they've changed it or it should be changed. That would be a good question for this committee to investigate. Does this conflict with the law you put in place?

Chairman Kaiser: If I understand this correctly, you are testifying neutral and you are against the Carver Method and you want more employee reps—so where's the neutrality?

Kemnitz: I tried to approach in a neutral position but as the questions moved around the table. . .

Chairman Kaiser: Let's ask someone from WSI. Is it illegal in the Carver Method for someone on your board who is in a minority position to say anything publicly?

Blunt: The basis for the Carver Method is to provide ends and the ways to get to get there. I want to see achieved, I'll provide you what's necessary to get there, but I'm not going to micromanage you or tell you how to do it. I will simply hold you accountable for what you did or did not achieve in these objectives at the end of the day. The discussion of subpoenas—if they are subpoenaed they are obligated by law to say. If you requested a board member to appear before you and explain why they were in opposition to that vote, they can come forward and explain why they are in opposition; but, under the Carver Model, they may not advocate against the board and the position the board took. They may explain to you why they took that position. To assure that we are following the model, the board will be having a retreat at the end of the month and contracting with one of the very rare people that has been personally trained by Carver himself to review practices and procedures as well as teach the new board members what the Carver model is and make sure we are incorporating it as is appropriate.

Representative Kasper: Do your minutes reflect the debate and do you have roll call votes to make decisions and are those public or private records.

Blunt: They are recorded roll call votes, minutes are taken and recorded, you may receive the minutes, the tape recordings, and you may receive the votes and the discussions.

Bill Shalhoob, representing the ND Chamber of Commerce: I would like to point out a

couple areas that were in the original bill. We were not in favor of ex-officio members but I see in the amendment that is taken out. A comment on terms of office—4-year terms are better. If we want to limit, 2, 4-year terms this creates a bit more turnover. It is difficult to find people to make a 6-year commitment. Certainly board members suggested would add more expertise.

Representative Thorpe: If we had an amendment for the proposed members to go on the board as the present members expire?

Shalhoob: That would drag the time frame back considerably. Board size can get to be an issue.

There being no further testimony, Chairman Kaiser closed the hearing of HB 1460.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: 3024

Committee Clerk Signature

Stephanie N. Thomas

Minutes:

Chair Keiser opened the hearing on HB 1460. I've prepared an amendment.

See proposed amendment 70708.0103.

WSI in this past interim, and as a result of a lot of media play, there are really two issues. Are the benefits being extended to WSI employees, the claimants appropriate? Even in our committee that is a hard one to answer. The number one issue was board accountability, the perceived inbreeding in the board; the board appoints their own people. What this amendment does is take the bill and creates to 4 year terms that can be consecutive, but it also grandfathers in any board member who's on there under the old regulation, which was 3 consecutive 4 year terms. So, it doesn't throw anybody off the board that is currently there. It maintains the eleven member board as the current law is, the difference being that the ND Medical Association will send three names to the Governor, and the Governor will select one. Later, which it currently does, will send three names to the Governor, and the Governor will select one. The Governor will directly select the two remaining employee members, and the one at large member. The State Chamber working with all the other business organizations in our state, Motor Carriers will nominate the 6th employer representatives, but the criteria for the employer representatives do not change. Then we created three nonvoting members, and put

a sunset on them, and those three nonvoting members are one IT CEO, one Healthcare CEO, and one Insurance CEO. My argument for that is you need these people on your board. Then we created three nonvoting members, and put a sunset on them, and those three nonvoting members are one IT CEO, one Healthcare CEO, and one Insurance CEO. My argument for that is if your rational is you need these people on your board then we better redo all the boards in the state, and make sure we get an IT CEO on the State Board of Higher Education, and on all the other boards, and it's also a dangerous practice when you start designating slots. It can get you into trouble, and so just on a trial basis I think we should put them in as nonvoting members. If in two years it proves that they are so beneficial and appropriate, then the legislative body can reconsider and do whatever they want.

Rep. Ruby: When you talk about the CEO's in those three areas, didn't they also want that the board members were also members?

Rep. Keiser: It leaves Rep. Skarphol's bill in tact. He wanted to make sure that all of the business board members were CEO's, if you look at his bill on page 19 and 20. We had people on the board who weren't in that category that were allowed to continue, and they now are just starting their 3rd term.

Rep. Dosch: Why make those nonvoting members?

Rep. Keiser: If you've never had a chance to go to a board meeting, most of their meetings are done teleconference, and I just think an 11 person board is manageable. I don't have a problem in making them voting, but I just think we should try and see if they are so good, put them in a nonvoting capacity for two year, and see if it's worthwhile.

Rep. Ruby: Will they be engaged if they're nonvoting?

Rep. Keiser: What frustrates me is that there isn't anybody that has an IT person on their board of directors, but when I go and buy IT, I must get a consultant to help me. I don't need a board member to do it, so that may be an area the committee wants to change.

Rep. Zaiser: I've been on boards where they're not voting members of the board, and they engaged and intended just to straight lace a good attendance record, just as those other folks. If they do have a fiscal meeting where they go someplace, I assume those nonvoting board members would get travel costs as well?

Rep. Keiser: I believe they did.

Rep. Zaiser: In terms of the labor side, the 5 members representing labor, are they all nonexempt employees, meaning per hour labor?

Rep. Keiser: No. The current law has labor unions recommending one person, and that stays. The Governor will then appoint the two other employees using the same criteria, and the one at large using the same criteria. Instead of the board appointing them, currently, the board is making most of the recommendations, but the board would love to get out of that responsibility, because how do they get the 6 business people. WSI's board, and staff are pleased to get out of the requirement to send the names to the Governor. There's no group that I've talked to that doesn't like this amendment.

Rep. Zaiser: These are exempt employees, or they could be all of them.

Rep. Keiser: They could be. They're totally not management. I think from a policy standpoint, we have a responsibility to look at the benefits.

Rep. Johnson: I'm kind of concerned with these individuals that are nonvoting members, about their role, and desire to show up and be there. What I do like is that they are nonvoting members, and that we don't change the makeup of the voting membership on the board.

Rep. Keiser: It added three more business executives voting.

Rep. Ruby: I like the idea that it's not expanding the number of board members, they're making them non board members, and there's the sunset clause, so I would move the amendment.

Rep. Nottestad: Second.

Rep. Dosch: The original bill had called for the Insurance Commissioner to serve as official member of the board. I guess I see some pretty good value in having the Insurance Commissioner as someone who is specifically used to looking at rates, looking at rate structures, analyzing insurance companies, because this is an insurance company, and I guess I like that aspect of the bill, rather than just a member of the insurance industry.

Rep. Keiser: The Insurance Commissioners in every state that I have ever talked to have nothing to do with Workforce Safety. It's a separate entity, and they don't play a role in that. They were as ex-official board members in the bill, and we certainly could consider that. It's like putting the Insurance Commissioner on a for profit board for me.

Rep. Kasper: The Insurance Commissioner's duties really don't go anywhere near WSI.

Rep. Nottestad: As I look at the Insurance Commissioner's office, the Insurance Commissioner's office is being a resource to this board at anytime they feel they need it. So, in essence it's available whether he's on as a person, because his office and the expertise of that office are still available as a resource.

Rep. Zaiser: I can see Rep. Dosch's viewpoint, because if there's an issue, or maybe the WSI's CEO doesn't think it's an issue, maybe the Insurance Commissioner might take a different look at it.

Rep. Amerman: If I was the Insurance Commissioner, I would probably have to come down to the side of yourself and Rep. Kasper. What the Insurance Commissioner does wouldn't have any influence, or anything that WSI does. I think the amendment is better than the bill

with the nonvoting, and I would probably vote in favor of the amendments. Even though the members are nonvoting, they're still employers which mean they still pay premiums, and they would still be in discussion, and so there's still potential for then having great influence on the way the other 11 members might vote. Even though I like the amendments, I doubt very much that I will support the whole bill.

Rep. Zaiser: I'd like to have the board consider that the three people that are not spotted from one industry be nonexempt employees, in other words, people that work by the hour, and not by salary, and not management. As you indicated there are 6 CEO's who are appointed by GNDA, or the State Chamber, and then if we had CEO's from the medical profession, there was only one from labor, and that's organized labor. So, to me with those CEO's on there, it looks more like 9-1. I would propose an amendment to that amendment that makes the three individuals that are appointed by the Governor be nonexempt employees.

Rep. Thorpe: Second.

Rep. Keiser: I'm going to resist the amendment, the motion to further amend. If you talk to WSI folks, the Governor, and others who have been responsible for getting good people on the board, people are not running to volunteer for this board.

Rep. Amerman: What does nonexempt mean?

Rep. Keiser: An exempt employee is higher to do the job, usually on a fixed salary, and theoretically you as a legislature are somewhat exempt. A nonexempt person is a person who gets paid by the hour. People who are commissioned are not hourly, and people who are on other incentives are not hourly. The nonexempt is literally hourly pay.

Rep. Amerman: Was there a mention that one person was running the two places?

Rep. Keiser: There was, and there was an Attorney General's opinion which has already corrected that.

Rep. Thorpe: Am I wrong in assuming that exempt also covers management individuals?

Rep. Keiser: If they're not hourly, yes it would.

Rep. Zaiser: Management is generally considered exempt, and people that are nonexempt, for the most part, are the workers that have to respond, and are paid by the hour.

Voice vote was taken to further amend the amendment.

Roll call vote was also taken. Motion Fails, 3 Yeas, 11 Nays, 0 Absent.

Rep. Amerman: In your amendments, do they also take out the ex-official, or would we have to adopt it?

Rep. Keiser: They're no longer ex-official, they're now nonvoting members.

Rep. Kasper: On your amendment on the sunset, on the current where we're talking about the labor representatives, it would be on page 3 at the bottom of the page, who would that be?

Rep. Keiser: AFLCIO.

Rep. Nottestad: Basically, everything in here that Rep. Skarphol addressed is in here?

Rep. Keiser: What it didn't address, from my perspective, the real issue of who appoints these board members, and that's really what I think from a policy standpoint that we should make a decision about.

Rep. Thorpe: I felt that the original bill for me was real detrimental, and I applaud you for bringing the amendments, because the amendments are going to make it better. Are the amendments now still voting more, or is it neutral?

Rep. Keiser: By making them nonvoting members, I think it has kept more balance, but it still has loaded it a bit. They're going to participate in the discussion, and they're going to have an influence.

Rep. Kasper: In my opinion, this bill takes away the criticism that we've heard for the last year about how the board is being appointed, and itself perpetuating.

Rep. Zaiser: From my perspective, I think this is a definite improvement from the previous one. I think the nonvoting is good, but in terms of is it loaded, in the terms of voting no, but I would agree it might have a little more influence.

Rep. Thorpe: I still have some reservations.

Roll call vote was taken on the adoption of the amendment. Amendment adopted, 14 Yeas, 0 Nays, 0 Absent.

Rep. Nottestad: I recommend a do pass, as amended.

Rep. Ruby: Second.

Roll call vote was taken. 10 Yeas, 4 Nays, 0 Absent, Carrier: Rep. Nottestad

Hearing closed.

adopted

Keiser Amendments to the Proposed Hacker Amendments (70708.0215) to HOUSE
BILL NO. 1460

Page 5, after line 14, insert:

**"SECTION 4. WORKFORCE SAFETY AND INSURANCE -
LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying,
during the 2007-08 interim, the workforce safety and insurance governance changes
made during the 2007 legislative session. The legislative council shall report its findings
and recommendations, together with any legislation required to implement the
recommendations, to the sixty-first legislative assembly."

3-3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1460

Page 1, line 1, replace "sections" with "section" and remove "and 65-02-03.2"

Page 1, line 2, replace the second "and" with a period

Page 1, remove line 3

Page 1, line 8, replace "thirteen" with "fourteen" and remove "The chief information officer of"

Page 1, remove line 9

Page 1, line 10, remove "ex officio members of the board."

Page 1, line 19, remove the overstrike over "~~Except for the employer at large~~"

Page 1, line 20, remove the overstrike over "~~representative, each~~" and remove "Each"

Page 2, line 2, remove the overstrike over "~~is a member at large who must be a resident of this state and at~~"

Page 2, line 3, remove the overstrike over "~~least twenty one years of age~~" and remove "represents the health care industry"

Page 2, after line 3, insert:

- "e. One member represents the health care industry and must be a principal owner, chief executive officer, or chief financial officer of a health care-related business.
- f. One member represents the information technology industry and must be a principal owner, chief executive officer, or chief financial officer of an information technology-related business.
- g. One member represents the insurance industry and must be a principal owner, chief executive officer, or chief financial officer of an insurance-related business.

Page 2, line 4, remove the overstrike over "~~Board~~", remove "Except for the ex officio board", remove ", members", and remove the overstrike over "~~four-year~~"

Page 2, line 5, remove "six-year"

Page 2, line 8, remove "and may not serve two or more"

Page 2, line 9, remove "consecutive terms" and after the period insert "The term of the initial appointment of the health care industry representative begins on the effective date of this Act and expires on December 31, 2008. The terms of the initial appointments of the information technology representative and insurance industry representative begin on January 1, 2008, and expire December 31, 2010."

Page 2, line 11, remove the overstrike over "~~Board members may not serve more than three consecutive~~"

Page 2, line 12, remove the overstrike over "~~terms.~~"

Page 2, line 16, after the second underscored comma insert "information technology industry representative, insurance industry representative,"

Page 2, line 19, after the underscored comma insert "information technology industry representative, insurance industry representative,"

Page 2, line 26, remove the overstrike over "~~The governor shall appoint the replacement~~"

Page 2, remove the overstrike over line 27

Page 2, line 28, remove the overstrike over "~~board.~~"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 through 14

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1460

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 65-02-03.1 of the North Dakota Century Code, relating to the workforce safety and insurance board membership; to provide for application and transition; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-03.1. Workforce safety and insurance board of directors - Appointment.

1. The board consists of eleven voting members and three nonvoting members. The appointment and replacement of the voting members must ensure that:
 - a. Six board members represent employers in this state which maintain active accounts with the organization, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of ten thousand dollars but less than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of less than ten thousand dollars, and at least one employer at large representative. Except for the employer at large representative, each employer representative must be a principal owner, chief executive officer, or chief financial officer of the employer.
 - b. Three members represent employees; at least one member must have received workforce safety and insurance benefits; and at least one member must represent organized labor.
 - c. One member is a member of the North Dakota medical association.
 - d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.
2. ~~Board Voting board members shall serve four-year terms, except the initial term of office of the member at large to be appointed on August 1, 2003, expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006~~ nonvoting members shall serve two-year terms. The governor shall make the necessary appointments to ensure the term of office of voting members begins on January first of each odd-numbered year and to ensure the term of office of nonvoting members begins on January first of each even-numbered year. Board members may not serve more than ~~three~~ two consecutive terms.
 - a. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by

the departing member. The governor shall appoint the replacement member for a departing an employer representative or medical association representative from a list of three potential candidates submitted by the board. ~~The board shall interview an employer representative or a medical representative before placing that candidate's name on the list of replacement member candidates submitted to the governor~~ greater North Dakota chamber of commerce working together with other business organizations in the state.

- b. The governor shall select the replacement member for the departing organized labor employee representative from a list of three ~~names of~~ potential candidates submitted by an organization that is statewide in scope and which through ~~its~~ the organization's affiliates embraces a cross section and a majority of organized labor in this state.
- c. The governor shall select the replacement member for a departing ~~two~~ nonorganized labor employee representative. ~~The governor shall appoint the replacement member for representatives and the member at large from a list of three candidates submitted by the board.~~
- d. The governor shall select the member representing the North Dakota medical association from a list of three potential candidates submitted by the North Dakota medical association.
- e. The governor shall select each of the three nonvoting members of the board from a list of three potential candidates submitted by the greater North Dakota chamber of commerce working together with other business organizations in the state. The appointment and replacement of the three nonvoting members must ensure that:
 - (1) One member represents the health care industry and must be a principal owner, chief executive officer, or chief financial officer of a health care-related business.
 - (2) One member represents the information technology industry and must be a principal owner, chief executive officer, or chief financial officer of an information technology-related business.
 - (3) One member represents the insurance industry and must be a principal owner, chief executive officer, or chief financial officer of an insurance-related business.

- 3. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in this subsection section.

SECTION 2. AMENDMENT. Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-03.1. Workforce safety and insurance board of directors - Appointment.

- 1. The board consists of eleven members. The appointment and replacement of the members must ensure that:
 - a. Six board members represent employers in this state which maintain active accounts with the organization, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five

thousand dollars, at least one of which must be an employer with an annual premium of ten thousand dollars but less than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of less than ten thousand dollars, and at least one employer at large representative. Except for the employer at large representative, each employer representative must be a principal owner, chief executive officer, or chief financial officer of the employer.

- b. Three members represent employees; at least one member must have received workforce safety and insurance benefits; and at least one member must represent organized labor.
 - c. One member is a member of the North Dakota medical association.
 - d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.
2. Board members shall serve four-year terms, ~~except the initial term of office of the member at large to be appointed on August 1, 2003, expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006.~~ The governor shall make the necessary appointments to ensure the term of office of members begins on January first of each odd-numbered year. Board members may not serve more than ~~three~~ two consecutive terms.
- a. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the replacement member for a ~~departing an~~ employer representative ~~or medical association representative~~ from a list of three potential candidates submitted by the board. ~~The board shall interview an employer representative or a medical representative before placing that candidate's name on the list of replacement member candidates submitted to the governor~~ greater North Dakota chamber of commerce working together with other business organizations in the state.
 - b. The governor shall select the replacement member for the departing organized labor employee representative from a list of three ~~names of~~ potential candidates submitted by an organization that is statewide in scope and which through ~~its~~ the organization's affiliates embraces a cross section and a majority of organized labor in this state.
 - c. The governor shall select the replacement member for a departing two nonorganized labor employee representative. ~~The governor shall appoint the replacement member for representatives and the member at large from a list of three candidates submitted by the board.~~
 - d. The governor shall select the member representing the North Dakota medical association from a list of three potential candidates submitted by the North Dakota medical association.
3. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in this ~~subsection~~ section.

SECTION 3. APPLICATION AND TRANSITION. Section 1 of this Act applies to all board member appointments occurring after July 31, 2007. Under section 1 of this

Act, a board member serving on August 1, 2007, who has served more than two consecutive terms may continue to serve through the expiration of the appointed term. Under section 1 of this Act, the terms of the initial appointments of nonvoting members begin on January 1, 2008.

SECTION 4. EFFECTIVE DATE. Section 2 of this Act becomes effective on January 1, 2010.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through December 31, 2009, and after that date is ineffective."

Renumber accordingly

Date: 2-7-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1420

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Further Amend

Motion Made By Rep Zaiser Seconded By Rep Thorpe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		<input checked="" type="checkbox"/>	Rep. Amerman	<input checked="" type="checkbox"/>	
Vice Chairman Johnson		<input checked="" type="checkbox"/>	Rep. Boe		<input checked="" type="checkbox"/>
Rep. Clark		<input checked="" type="checkbox"/>	Rep. Gruchalla		<input checked="" type="checkbox"/>
Rep. Dietrich		<input checked="" type="checkbox"/>	Rep. Thorpe	<input checked="" type="checkbox"/>	
Rep. Dosch		<input checked="" type="checkbox"/>	Rep. Zaiser	<input checked="" type="checkbox"/>	
Rep. Kasper		<input checked="" type="checkbox"/>			
Rep. Nottestad		<input checked="" type="checkbox"/>			
Rep. Ruby		<input checked="" type="checkbox"/>			
Rep. Vigasaa		<input checked="" type="checkbox"/>			

Total Yes 3 No 11

Absent 0

Floor Assignment Rep Nottestad

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

Date: 2-7-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1460

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken adopt Amendment

Motion Made By Rep Ruby Seconded By Rep Nottestad

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	X	
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigasaa	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep Nottestad

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

Date: 2-7-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1460

House Industry Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS, AS Amended

Motion Made By Rep. Nottestad 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		X
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 10 No 4

Absent 0

Floor Assignment Rep. Nottestad

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

REPORT OF STANDING COMMITTEE

HB 1460: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1460 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 65-02-03.1 of the North Dakota Century Code, relating to the workforce safety and insurance board membership; to provide for application and transition; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-03.1. Workforce safety and insurance board of directors - Appointment.

1. The board consists of eleven voting members and three nonvoting members. The appointment and replacement of the voting members must ensure that:
 - a. Six board members represent employers in this state which maintain active accounts with the organization, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of ten thousand dollars but less than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of less than ten thousand dollars, and at least one employer at large representative. Except for the employer at large representative, each employer representative must be a principal owner, chief executive officer, or chief financial officer of the employer.
 - b. Three members represent employees; at least one member must have received workforce safety and insurance benefits; and at least one member must represent organized labor.
 - c. One member is a member of the North Dakota medical association.
 - d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.
2. ~~Board~~ Voting board members shall serve four-year terms, ~~except the initial term of office of the member at large to be appointed on August 1, 2003, expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006~~ nonvoting members shall serve two-year terms. The governor shall make the necessary appointments to ensure the term of office of voting members begins on January first of each odd-numbered year and to ensure the term of office of nonvoting members begins on January first of each even-numbered year. Board members may not serve more than three two consecutive terms.

- a. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the ~~replacement member for a departing an employer representative or medical association representative~~ from a list of three potential candidates submitted by the board. The board shall interview an employer representative or a medical representative before placing that candidate's name on the list of replacement member candidates submitted to the governor greater North Dakota chamber of commerce working together with other business organizations in the state.
 - b. The governor shall select the ~~replacement member for the departing organized labor employee representative~~ from a list of three ~~names of~~ potential candidates submitted by an organization that is statewide in scope and which through ~~the~~ the organization's affiliates embraces a cross section and a majority of organized labor in this state.
 - c. The governor shall select the ~~replacement member for a departing two nonorganized labor employee representative. The governor shall appoint the replacement member for representatives and the member at large from a list of three candidates submitted by the board.~~
 - d. The governor shall select the member representing the North Dakota medical association from a list of three potential candidates submitted by the North Dakota medical association.
 - e. The governor shall select each of the three nonvoting members of the board from a list of three potential candidates submitted by the greater North Dakota chamber of commerce working together with other business organizations in the state. The appointment and replacement of the three nonvoting members must ensure that:
 - (1) One member represents the health care industry and must be a principal owner, chief executive officer, or chief financial officer of a health care-related business.
 - (2) One member represents the information technology industry and must be a principal owner, chief executive officer, or chief financial officer of an information technology-related business.
 - (3) One member represents the insurance industry and must be a principal owner, chief executive officer, or chief financial officer of an insurance-related business.
3. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in this subsection

SECTION 2. AMENDMENT. Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-03.1. Workforce safety and Insurance board of directors - Appointment.

1. The board consists of eleven members. The appointment and replacement of the members must ensure that:
 - a. Six board members represent employers in this state which maintain active accounts with the organization, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of ten thousand dollars but less than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of less than ten thousand dollars, and at least one employer at large representative. Except for the employer at large representative, each employer representative must be a principal owner, chief executive officer, or chief financial officer of the employer.
 - b. Three members represent employees; at least one member must have received workforce safety and insurance benefits; and at least one member must represent organized labor.
 - c. One member is a member of the North Dakota medical association.
 - d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.
2. Board members shall serve four-year terms, ~~except the initial term of office of the member at large to be appointed on August 1, 2003, expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006.~~ The governor shall make the necessary appointments to ensure the term of office of members begins on January first of each odd-numbered year. Board members may not serve more than ~~three~~ two consecutive terms.
 - a. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the ~~replacement member for a departing~~ an employer representative or medical association representative from a list of three potential candidates submitted by the board. ~~The board shall interview an employer representative or a medical representative before placing that candidate's name on the list of replacement member candidates submitted to the governor~~ greater North Dakota chamber of commerce working together with other business organizations in the state.
 - b. The governor shall select the ~~replacement member for the departing~~ organized labor employee representative from a list of three ~~names of~~ potential candidates submitted by an organization that is statewide in scope and which through ~~its~~ the organization's affiliates embraces a cross section and a majority of organized labor in this state.
 - c. The governor shall select the ~~replacement member for a departing~~ two nonorganized labor employee representative. ~~The governor shall appoint the replacement member for representatives and the member at large from a list of three candidates submitted by the board.~~

- d. The governor shall select the member representing the North Dakota medical association from a list of three potential candidates submitted by the North Dakota medical association.
3. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in this ~~subsection~~ section.

SECTION 3. APPLICATION AND TRANSITION. Section 1 of this Act applies to all board member appointments occurring after July 31, 2007. Under section 1 of this Act, a board member serving on August 1, 2007, who has served more than two consecutive terms may continue to serve through the expiration of the appointed term. Under section 1 of this Act, the terms of the initial appointments of nonvoting members begin on January 1, 2008.

SECTION 4. EFFECTIVE DATE. Section 2 of this Act becomes effective on January 1, 2010.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through December 31, 2009, and after that date is ineffective."

Renumber accordingly

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1460

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1460**

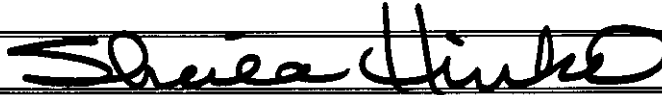
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 7, 2007**

Recorder Job Number: **4569**

Committee Clerk Signature



WSI bill:

Representative Bob Skarphol - In Favor

The bill addresses the board membership, WSI board. As a prime sponsor of the board in 1995, as member of the Audit and Fiscal review committee after hearing the audits, it became apparent to me that we do some thing in the Legislative process that not everything is always perfect. There needs to be 3 entities represented in the board.

1. Insurance industry, WSI is monopolistic insurance company and was appropriate to have someone from the industry relative to that industry.
2. Technology – someone in the process of implementing some rather expensive software projects and as a member of the Legislature and coming up with a better system for analyzing in advance asking right questions.
3. Medical providers – need a seat at the table, because of the fact that they are one of the recipients of the dollars that come from WSI.

The actions of the House Senate Industry, Business & Labor committee resulted on the floor is part of the way where I would like to see us be. I find non-voting membership on most boards to be somewhat difficult to fill. Most people don't want to participate in something when they really don't have any influence or a vote on the board. I would like to see it changed to where

they had four year terms and were voting members, in an effort to give them a position at the table of WSI.

S Klein: If we add these 3 people with those backgrounds, and basically all the bill does. At this point those 3 members have no voting availability.

Bob S: That's right. Under current law you can serve 12 years on the board, this does make it 8 in year terms, and changes the process by which nominees are brought before the Governor to serve on the board and there are other changes.

S Heitkamp: If you look at the makeup of the board now from the worker's prospective, you can say, it leans more toward the employer than the employee. This doesn't aid that as I see it. How would you answer that?

Bob S: When we created the board of directors, it was intended that it would be run by the people who pay bills, but wanted the folks to be represented and then put the employees on the board to express their voice. The ideal mix between employers and employees is something we'll always disagree on. The major representation needs to come from the employer section.

S Heitkamp: When you say, "that pay the bills," I understand the cash going out from the employer for that, it's a payment for the guarantee of never having to deal with litigation, never having to have an employee come after them for whatever might happen in that workplace. Isn't there an argument that could be made that both people are paying that bill?

Bob S: There's an argument that could be made, there has to be restraint on both sides and that's where WSI comes into place, we've tried to implement fair laws that affect the injured worker and no matter how good we are, we're never going to have a situation where there aren't exceptions or people who fall through the cracks.

S Heitkamp: Do you think the current board does a good enough job of making sure that that balance is as close to perfect as we can get it?

Bob S: All of us can do better. We all make mistakes

S Andrist: Putting someone on the board who doesn't vote is like kissing your sister. Did you consider modifying the 11 member, you're making it a 14 member board, in the nominating process so these groups were represented?

Bob S: I'm not a member of the Senate Industry, Business & Labor committee, but with your consensus, this was the correct thing to do, I don't agree with what they've done and I would like them to be voting members of the board, quite frankly.

S Klein: MADE them voting members? Original members, when I had it drafted, I did make them voting members.

S Andrist: Did it make it a 14 member board?

Bob S: I think we used one of the current members, medical, so I ended up with an odd number.

S Behm: Why have non-voting members, aren't they just fixtures?

Bob S: I agree with you.

S Behm: It don't make sense to have them sitting on the board and they don't have any say.

Bob S: They do have the right to express their opinion. They can ask the questions, they just don't have a vote.

S Heitkamp: At what point do you get too big, where do you get the right mix, do you need more board members?

Bob S: It's the number of issues they have to deal with, the agenda, dedication of board, background in preparing for board meetings. Obviously we could argue our assemblies are too large as well.

S Klein: So it comes down to that board and the agency interpreting the laws as we have brought them forward. That doesn't change that.

Bob S: No. What this does is provide a higher level of expertise on the board in certain areas. The folks on the board today are very familiar with what the issues are in their particular entity. Most people are an expert in the area they deal with, and unless they are in technology, very few of them are technology experts. We need a higher level of expertise.

S Klein: One of the things I noticed in your select, you're not asking for a designee. You're specifically pointed to one member representing Healthcare industry and "must be" the principal owner, the CEO, is that correct?

Bob S: Under current law, anyone on the board who is not an employee member is required to be a principal owner, CEO or CFO. Also would suggest, if you get real technical, they are not in compliance with that.

S Klein: For example, the Healthcare industry if it happened to be the chairman of BC for example, he would have to be there.

Bob S: My vision of the board was that it was mature and we would get those types of individuals to be the participants in this board.

S Potter: If we were to amend this and make these voting members, would you be willing to make them part of...would you prefer they just be added or just be part of the 6 employer members?

Bob S: We would add members to this as appropriate.

S Potter: If you had your "druthers" continuing to be non-voting, or the 6 employer members including these specific designees.

Bob S: I would like to see this expertise represented on the board, I would suspect you can do both.

S Hacker: The numbers on the board, 11, 13, 14, 15, does that seem to be a lot of people on the board, at what stage do the people sitting on that board feel like they're just sitting at a hodge podge at the table of people.

Bob S: At least weekly, I set in a meeting with a lot more people than 14. It's conducted properly. It would be very simple to run a board that size.

S Wanzek: It seems like we're focusing on the non-voting members, or adding a bunch. Where does the list of current members come from.

Bob S: Current configuration, the board brings forth nominees for the Governor to appoint. I don't think there is any prohibition from having any input.

S Wanzek: The 2 members at large, the Governor selects them per his discretion w/o a list.

Bob S: That's correct and I think that's appropriate, he may want to have someone he's worked with personally before.

S Potter: About the Greater North Dakota CofC making an appointment. We name the great CofC, but we obscure the AFLCIO. Any discussion about that?

Bob S: I didn't serve on the committee that chose to use that entity. I don't have an issue with it one way or another. I don't have knowledge how the AFLCIO is identified.

S Heitcamp: 14, you had a problem with the even number if they turn into voting?

Bob S: In an imperfect world, issues will be decided by significant enough majority that it would not be an issue.

S Andrist: As I read this, this would replace the system of having the board pick it's own successors and bringing the Greater ND Association in to make these nominations. I guess I'm wondering if you talked to the GNDA if they expressed an interest or willingness to assume this role.

Bob S: I personally have not spoke to them. It is a committee choice that was referred to us.

S Klein: When you say "they," it would be the House IBL?. This was not your original intent.

Bob S: it wasn't part of our original amendment, and it wasn't even a discussion on that amendment.

Sandy Blunt – Executive Director and CEO of WSI here on behalf of Bob Endvik

In Favor,

The bill does represent its two tenants. The board will remain independent in nature and that it be free of political influence, what this bill adds business expertise to the board. The board is in support of this. Rep. Skarphol's number originally was 13, replacing the existing members, the board felt that it really shouldn't take anyone off, or wait for an opening. The board is currently is full and actively operates under the law. It changed to a "principal owner, CEO, CFO" was last session, it Grandfathered in existing members in, there all members are the board are functioning legally within the law. It in expanding, does give the Governor one more appointment. He will give him one more as he already has two.

S Klein: How do you feel about the 3 non-voting members?

Sandy B: I would like to support Rep. Skarphol that they should be voting members. As difficult as it is to get people of quality to serve on a board. It takes time. If you'd like to amend it to say "voting members" the board does support. All members should be equal in their vote.

S Heitkamp: Do you really believe that by adding the ND Chamber of Commerce that you are keeping this out of politics?

Sandy B: Yes I do because currently, when we have board openings, we send letters out across the state and the organizations and everyone else and ask for names to be reviewed. The choices can be Business, Medical, Governor, Labor. That takes the board out of being "self fulfilling" with its own members.

S Klein: Sandy, earlier we passed a bill that changed the employee, injured worker, would this hurt that bill or do we have to take a look at this bill to get it to where the other bill was?

Sandy B: Not being an attorney, it's our belief that the two will be married together in the Legislative council, one doesn't trump the other. It will go from 1 to 2 injured workers, they don't believe there is a conflict, that is not the intent.

S Hacker: You mentioned the challenge to get individuals to serve on the board. When you create a larger board, you limit the power of those board members or their weight they carry. Do you believe that going from 11 to 14 is the right direction that WSI should go?

Sandy B: I am here on behalf of the chairman, so am expressing the boards desire and don't want to get too far in speaking on their behalf. If it adds more expertise and knowledge and talent, adding these people would be welcome.

S Hacker: Will that help the challenge to expand the board?

Sandy B: It can only enhance the challenge.

S Hacker: How has the attendance been to the board meetings?

Sandy B: Very good. We have weekly legislative meetings, if they can't make that meeting, they can usually make the quarterly meeting.

S Hacker: IT professionals, corporate world, don't they just hire an IT professional to consult? Do you have that authority?

Sandy B: Yes, we have our own IT staff, we hire consultants from the industry. We do report to the information technology section of the legislature. We have a strong connection to IT to the extent they wish to have that knowledge within the board membership.

S Hacker: When the board meets and the medical professionals are there, is it more advising on medical situations, providing information, and if that is needed as a voting member, once the information is provided so the board can make a knowledgeable decision on how they want

to vote on an issue, is the Medical association needed as a voting member or there for information?

Sandy B: Yes, they are a valuable member. Having that expertise is important. It brings together the issues of what we do. To go from "sole cause" to "primary" the board changed its position after the words changed because of a medical prospective.

S Heitkamp: Question, the way the power WSI has stems from the point that injured workers gave up their ability to sue, employers pay into a fund and they do that to have that benefit of knowing what potential costs would be. As more and more of this board leans toward the employer, is there any fear, you, the administrator, and I realize you're testifying for Bob Envik, but from your prospective, if we added these 3 board members, that pendulum would swing even further towards the employer side?

Sandy B: I understand your arguments on how the board is structured, I think it is critical that you have all voices on there to be able to have a good discussion without overpowering it. Just because I'm an employer doesn't mean I don't care for the injured worker. The employers do fight hard on behalf of injured workers and at the end of the day, they scratch that check, and that was the prospective the legislature wanted was someone who pays the bill and understands the economic impact of individuals.

S Heitkamp: That's twice that came up today, at the end of the day, that's the one that pays the bill. I would contend that the injured worker, or the worker is paying that bill themselves too, because there must be a value to what they gave up, that right to go into court, we had a work force action here and I should have the right to sue you as an employee. They gave that up and so that's my point, this board, if we do this, it swings even further toward the employer side. As an administrator, does that put you in a fearful position of someone bringing litigation up in front of a court somewhere, saying the "pendulum swung too far, the system's askew."

Sandy B: We're not concerned with the legislation because we look at any comp board in the US, primarily owning employers. Up to the discretion, what the balance will be and if it is unbalanced.

S Andrist: My concern is to get the most effective hard-working board we can possibly get. I'm not that concerned about who they represent. One non-profit organization that which I served on the board does a pretty rigorous evaluation of it's work and involvement and commitment which I think is kind of revealing. Do you do such a process as this?

Sandy B: We are a lot more aggressive, training implementation, and design of the model which the board has chosen and in it there are fundamental requirements that take independent looks at themselves to see that they are following the model. Today not as strong as we would like, but in the future it will be at that level.

S Andrist: Would you anticipate B&B or other employer groups were involved in the nomination process that you would share this self-evaluation with them?

Sandy B: That seems reasonable, and it is public information. Names will go to the Governor in blocks of 3, but the Governor makes the final determination. The law requires personal interviews.

S Potter: You say they send out letters. Who do they go to, I've never received one.

Sandy B: Letters go out to the major associations, advertisements taken out in all the major newspapers, it's all outlined under law how that's executed and it's followed.

S Potter: And the names of the organizations is in the law.

Sandy B: We don't have all the exact names, but poll all major associations that are listed.

S Potter: Can you tell me what you mean by "keep out of politics."

Sandy B: We have a body of elected officials is coming in on behalf of the officials as individuals. You can't keep politics out of anything. It means keeping elected official politics out of what should be fundamentally fact-based in corporate decisions.

S Potter: Are you a state employee or an insurance company executive?

Sandy B: I am a state employee.

S Potter: Do you share Rep. Skarphol's idea that board should be staffed 6-3 employer over 9-3 over workers?

Sandy B: It is inappropriate for me to make any comment.

Bill Shalooob – ND Chamber of Commerce - In Favor

After hearing much debate in the House, the House passed this bill. We believe this bill could provide help with the board of directors and look forward to participating in discussions with the Senate. The original bill called for 13 members of the board, and then only one of them would have to be replaced. We have SOME reservations about designating Board Members to specific industry groups.

S Klein: You said you liked the bill, but have your reservations.

Bill S: If you're going to put members on the board, they should be voting members. We don't believe ex-officio members are good. We do have reservations. If you are going to add expertise, and wonder how much designation is really good for the board, that every slot is designated. If you were going to slot the board members, where do you start and stop with this process by employer group.

S Potter: Do you think there is a potential here that naming the non-voting members and designating what businesses they come that these businesses then will end up under represented on the voting side rather than appoint a voting members from an IT business because it's already taken care of in the non-voting.

Bill S: You're asking for a CEO or CFO to come and take up his time; you're asking for folks that are busy, who have things to do and normally designate for people to do this kind of thing. You're asking them to not be a voting member. I wonder about success in getting those people to serve in an ex-officio capacity.

S Heitkamp: Are you worried injecting the Chamber into this? It's controversial, it's on the table, there's a lot of issues, a lot of people. Are you worried at all, you're able to affect this NOW. You've had your fingerprints on it, and not good or bad, but you've had the ability to have a stance on this and now when you get to this board, we're expanding it. Getting the board bigger, are we getting it askew?

Bill S: The Chamber was asked by Senate Industry, Business & Labor committee, we agreed, we know we're in this bill. We assume that we'll have to develop a process that is as fair as any other to select board members. We are willing to move in the direction requested and would like to have the Senate Industry, Business & Labor tell us if it is in the right direction.

OPPOSITION

Tim Effertz – *In Opposition*

We have a problem of prospective here. Supreme court has ruled that the trade off between employers and employees is that people change. I don't see an equal exchange in the situation where we as injured employees are totally represented on the board. The Greater ND Association will have control of the board, and then if you have lived awhile, you realize that the Greater ND Association or the Chamber, were the leaders of the "scorched earth" policy of the early 90's that took a lot of benefits from us and treated us unfairly and we're putting Band-aids on it now because they were so vigorous when they came in. This is not right. I contributed an equal amount of inconvenience and losses to what the employer contributed in premiums and that somehow I should have some representation on that board. I've asked to

be on the board a number of times, I have more personal experience than the whole board combined and yet people like myself are shut out because we're considered to be second-class citizens. I think this is an equal exchange and that this bill needs to go back to the drawing board and come back with a reasonable division of who's on the board and not start talking about not involving politics because the very fact is that it is involved. I suggest a better choice of people that appoint members to that board might be a minority of the Legislature. You are responsible to us directly. At least we can un-elect you if you don't pick decent members of the board. It needs to be EQUAL representation, not someone with a broken finger and were happy with what went on. We need people on that board who have enough history dealing with disability to give GOOD advice, to not waste the state's money by doing things that are not proper. I can save them lots of money because I know what NOT to do, but no one is going to listen to me because I don't have that credential from being from the Greater ND Association. You should put it back into the bin and get some people together during the interim and work HARDER at it.

S Potter: I'm proposing to amend this bill to make it 4 employer members, 4 employee members and 2 at large members. Would you find that to be more satisfactory?

Tim E: I would suggest we don't pick employee members who are slightly injured. There ought to be people who are drawing permanent total disability or permanent partial disability in order to serve on the board so they have the long term experience, not just in to make a grab, and don't understand that when the fund gets depleted, because if someone cheats, it hurts people who have been on there for 40 years.

David Kemnitz, President of ND AFLCIO - In Opposition

TESTIMONY # 1 *Read over testimony 46:00m*

HB 1416 doesn't speak at all to what the concerns of workers are in representation. Our concerns are with another bill, SB 2073 which was heard January 16, 2007. *Talked about changes to 2073.*

We're asking that the Senate Industry, Business & Labor change the Language, page 1, lines 20, 21, 22 to read in the same manner as the agreed-to language in engrossed Senate bill 2073 passed on January 26.

What we're angling at is that Tim Effertz said, the board is mandated, legislated and majority of constituency or stake holders. All votes tend to be that way. That is the status quo that doesn't allow for legitimacy. All members are in agreement. It would never see the light of day because of the majority position of the board. *Explains Legislative choice on board. 47:45m*
Showed graph showing voting decision with color chart.

How do they know if they don't sit down and discuss it? *Ends 51:32m*

S Klein: Seems to me when issues come before Senate Industry, Business & Labor 1997 with WSI, when issues came before the committee that had Worker's Comp the executives came and spoke against them. We didn't have a board to go back to. They themselves developed an agenda, what changes we needed to make. I We as legislators use it as informational and not as gospel. What difference is it now than when it was in '95?

David K: I've been a veteran to these battles for 2 decades now. We've had battles here and advisory councils that work through their problems on the system.

S Klein: Currently we are putting all this on the board, in pre-board days when we listened to the executive committee who brought forth some information and then we garnered what we needed to out of that, but still think as the legislators we need to sort some of those things out.

Some of these things, we move things forward, I know the board is there, but don't know that I was influenced by the fact that 7, 8, 10 or 3 members said it was a good or bad idea. I want you to know what they are saying is not what is making our determination.

Are you one of the worker....

David K: No

S Klein: Do you get to attend that?

David K: I can as often as I can.

S Klein: How does that go? Are there lots of conflict with workers and business?

David K: The observation in attendance the board meetings I've experienced, the agenda I've experienced, there is no sidelines observations that we feel comfortable, that we need to speak on this section of your agenda. The agenda is brought in by WSI and then the accountants and others. We see information from other sources, maybe 30 minutes. If you've gone through an entire day with volumes, the board isn't doing fact finding. *Continues explaining 55:00m*

S Klein: Back to board observation, how the employee members get treated. Would you say in the course of the day, the injured worker doesn't get a fair shake? Do they have input in the discussion.

David K: The board has not ignored someone who has raised their hand. The agenda makes the board move on. The chair has to control certain amounts of other activities to focus.

S Klein: They don't have the ability to hand notes to those guys? We know that's a good way to get a question from the audience onto the floor.

David K: You has chair is much more encompassing than anything I've seen on the Board of Directors of WSI. You have done head and shoulders above anything I've seen that board do,

S Klein: Trying to get an understanding of the function of the board. Great opportunity to get things off their chest. Maybe the board is not that sounding board for necessarily for how we legislate. Here we have an opportunity, we want to know how these guys see it, we may not agree with them, but the board, they're really running this insurance company. I've sat on boards we listen to administration and we listen to the CFO and listen to boards, the Sisters on the hospital board, and we garner all that and make decision on what we learned. We really don't take an active roll in pushing new rules. Would you think that more injured worker representation would change that?

David K: *Read from the Century Code. 60:21m*

The board is made up of a "majority-of-one" stake holders. Problem is that the majority vote is 50% plus one vote, never changes. For the workers to have a stronger position and voice, we're asking that you raise the threshold of the majority vote. New people don't feel they have their voice heard, the need to have the same input.

S Klein: There will be no action on it today. There is going to be work done by a number of folks, because it's about what the board really does and whether or not the makeup is critical or not. The Chamber made some good points, do we need to direct – this guy, this guy, and this guy, maybe mixed signals. I'm trying to get an observation of the board, how it's done and whether or not there's enough openness.

S Hacker: You said there's an allotted time at the end of the day for these individuals to respond, the way it sounds the days are very busy, they have a lot of work to get through, is that true?

David K: Yes, that's our observation.

S Hacker: Have you ever watched a board of 5 to 7 operate VS a board of 14, 15, 17 in #'s, have you seen the difference?

David K: Under the NFLCIO, we have a board of 33, and have an Executive Board of 5, we are all autonomous.

S Hacker: which do you feel is more efficient?

David K: I'm a political person, they're the best people I could ever work with.

S Hacker: Would you agree that a smaller board would be able to get through their work in a day, a little more efficiently and provide more time for testimony and outside sources to present to them their side of what's going on.

David K: This board takes in a HUGE amount of information in a short time. Various people come in and the volume of information is overwhelming. They take it in, in unity. They probe questions or hold back so they can move on. They could have a 2-day meeting and take it in one day and apply it the second day.

S Klein: Would you say that material ahead of the meeting, however

David K: Terry Kurl, who represents organized Labor has been careful in getting it carefully done and have more information out for the binders used.

S Klein: So they send out materials to board members a week in advance?

David K: The Bureau sends out information that's given. I don't get a 3-ring binder.

S Klein: Do you get to sit in and look at it?

David K: I get to sit in like people, here.

S Klein: Do you and Terry get together in advance for lunch at the Elks?

David K: He sometimes gets it the night before or the night before and for him to absorb it and summarize it to me would take more time than he would have.

S Andrist: Seems to me, the litany of complaints about the way the board is run, is the way EVERY board of directors is run. I've been on so many boards over the years, actually, it's the company management that bring the information to the board, I can't visualize a Board of

Directors that's full of confrontational people. I'm sure this board isn't sitting, deciding individual claims, they're directing policy of the company. I would be surprised if they weren't functioning regardless of their composition in that role, rather than in a confrontational role. Am I wrong on this?

David K: Hard for me to respond to the term "confrontational".

S Andrist: What you're suggesting that you're under-representation suggests that there is confrontation and therefore you're not being served. Every board I've served on which comes from a variety of components, once we get together in the function of the board, we're looking for answer to problems, we aren't looking for, it isn't like a committee of the legislature meeting where we have the Democrats on one side of the table and Republicans on the other side of the table. A good board should be running the company or helping to advise in the running of the company. You say that this board doesn't do that?

David K: There is in fact evidence that they're not doing that. *Shows chart.* If that board comes before you with an influence, that would be confrontational. When you're deliberating policy to WSI or determining what the ends are, not always the means, then ;yes, there should be more voices at that table. These people have the highest stakes of any in the system, pay too high a premium, an individual's only source of income is delivered by this, needs to be a much stronger advocacy role.

S Potter: Your amendments, you're saying 2/3's majority, but actually 7 is 63%. You want 7 or 8?

David K: 8 When I tried to do the math, I missed that. If the legislative body says," that is the mix we want." We're asking that you consider raising the majority vote.

S Potter: You are the carrier of the Century Code. 24 years The question whether the legislation from the Senate to the House, if it was adopted that has the two employees, if this bill is silent on that, isn't that the way it goes?

David K: It's the last bill passed. The last bill signed by the Governor.

S Wanzek: We have interest for ALL employees, injured and non injured. I understand your point, is it your view that it's impossible for an employer to possess an objective compassionate understanding of the work and injured worker? Is that impossible.

David K: Not at all. Our position is, economic interest drives the decisions of the board. That's why there is excess surplus laying there. WSI returned \$100 million dollars in the last 2 years in dividends. The boards duties aren't aligned with that. We think there is a bias for the clients.

S Klein: Where was the bias in 1995? Same bias, the same folks who go to the board and go before and go the sheet, we don't like it. Back then they came to us and said "this is what is the cost," and had our discussion then. What would change here?

David K: If we go back to the best system – 3 commissioners, 3 claimants could go to the commissioners and make their arguments to those commissioners, 2 out of 3 had to agree to alter the claims, adjust it and make compensation in the handling of it. We had a Labor person and a Public person. Every employer on the advisory council, worked together to make something better.

S Klein: You're not suggesting we don't shake hands now? Is there lots of confrontation?

David K: We've had forums, they were collegiate.

S Potter: As you've said before, I'm concerned about the Doctor in Cando and the kid riding the school bus in Crosby, I care about them, but I represent the guy across the street. When you talk about the bias on the board, I hope you don't mean that in a derogatory fashion

toward the individuals on the board, but when you represent business, your position is, "keep those premiums low." When you represent workers, let's help the workers.

David K: Close. The people we are asked to serve and the people in the business community are asked to serve have both of those considerations in mind. How well have we melded them in keeping the system healthy? When the question's asked, every time, what does it cost the fund, when its 6 to 3, and voting is a legislative bias, they weren't elected, they were appointed. I have the words for "Solidarity Forever.".....

Sebald Vetter – CARE Organization – In Opposition

The board is lopsided. I go along with Tim. It's like everyone would be Republican and just 2 people would be Democrat. Would we have a chance? I don't think so.

S Klein: They like me, tomorrow who knows.

Sebald V: I don't think the injured worker is being heard on the board.

S Klein: You go to these meetings sometimes? And you observe and that's why you think that? You think it is slanted.

Seabald V: Yes, it is slanted. If one of the board members, when he brought up something, they all voted against him and actually kind of laughed at him a little bit. He did that for awhile and then didn't bring up any more ideas. Right now, there's no public comments anymore. I asked Bob Envik a couple of times if I could give some comments, "no, no." Is anybody getting heard over there ? Not right now there isn't. We got no saying right now, if there would be some people on the board about injured workers, they would have some say. I haven't heard anything when I go to the board meetings that they bring up injured workers' subjects.

S Hacker: Would it be better if the committee who put the list to the governor had some political ties for some other reason? As an amendment that they would go through the list and put those names to the Governor. . How the names would be given to the Governor. That

group is the ND Chamber of Commerce. If that group had political feet-to-the-fire for all positions on the board, not just the employers, but employers, employees, all positions, they would be the ones that submitted those names, would there be more accountability on the board?

Sebald Vetter: I would say so.

S Klein: Is that if the names came forth from the elected commissioner, type folks?

Tim Effertz made a statement

1955 they taught us that good government always had checks and balances. We've lost our checks and balances, put them back and it will work better. It works good right now, it will work better.

Rod St Auben – BC/BS - In Opposition

Talking about new language on page 3, lines 4 – 17, this is where it adds 3 new members.

These are non-voting, if they maintain non-voting, I would suggest that whoever their member or designee because if non-voting, why do I have to sit there and change all my schedules.

If you do it as a voting member, suggestion, it is somewhat constrictive, it may be pretty limited. Example: you might have a title that doesn't fit that: "chief operating officer," might be the one who does the nuts-n-bolts and really understands the operations, I don't think you want to limit yourself. I don't know if you want to strike all that and have the representatives from those entities i.e. I.T related business, insurance related, or if you want to go into a specific area, just a suggestion.

S Hacker: Would you have as much interest serving on a board if it was 14 or 17, or 7?

Rod S: I've served on boards larger than this and it works on the chairman and organization. It works both ways.

S Klein: How big is the Blue Cross board?

Rod S: 10 or 12

Dave Peske – ND Medical Association - *In Neutral*

Haven't taken a position on this bill.. Worker's Comp is a three-legged stool. You have the Employers, Employees, and Medical Providers. You are amending the way the Medical Representative is chosen for the board in a very minor way. That's fine with us. We do want to encourage that a Medical person remain on the board however you decide to do that.

S Klein: Is he a voting member?

Dave P: Yes.

Alvin Brandt – Retired Injured Worker - *In Opposition*

Like to make some general comments. Mr. Blundt said there is some misinterpretation in the function of the board. When it started in 1919, the first Workmen's Comp bill was written and agreement made was: "Worker, you give up the right to sue me, and we will take care of you." When I hear the bottom line I really bristle. "I'm paying the bill." You can never convince me that after giving up our right to sue the company for their PROMISE to take care of us, that I haven't paid part of that bill. You'll never convince me that Tim Effertz hasn't paid part of that bill. Our injuries that we get, we're not talking paper cuts here, we're talking injury, pain and suffering for a long time. I won't go into my injury because people just don't want to hear about it. I would like to explain the day I got injured to you as it happened, the following 5 days and then the last 28 days I worked in my plant. I retired after 32 years, 10 mos. And 12 days of service. I will take my chances, but will the company take their chances? Get rid of this thing, it's not working. The covenant has been broken, we don't need 3 more businessmen on that board. A lot of time they think we just want to break our bosses. That's not right. If our boss goes broke, I don't have a job. I'm all for keeping the Workmen's Comp rate low, we have the lowest ones in the nation, most companies in the nation don't care what the compensation rate

is, they don't. They have an obscene balance here. Over a BILLION DOLLARS, the purpose of the money is to take care of the injured workers, there's a LOT of injured workers not being taken care of. Workmen's Comp denies, then you get into the appeal system and they give up. I didn't give up. *Gives example 96:00m on his experience.*

After 5-6 months, I called the hospital and asked "what is going on?" They said, they don't bill to BC/BS, and said, "We don't care who pays who pays the bill, we just want our money." I told them, "that is NOT my bill, don't you send that bill to my insurance company, BC/BS, they are not liable for that." If you send it to them and they pay for it, that will just drive up my rates. That was supposed to be paid. It took 12 months, so someplace they're saying I was a deadbeat because he hasn't paid this bill for 12 months. I always pay my bills, I paid them before I paid myself. Some way WC will give money back to employers is they institute some kind of "safety program." That if you have good safety meetings for your employees, let me tell you about our safety meetings. At our safety meetings, our supervisor, hands a clipboard around, you sign, clock number, and we watch safety films month after month. The last meeting, we saw a home video of the Minnesota Vikings. I'm a Viking fan, but there is no need for that. The sole purpose of that money in that fund, it belongs to the workers in the state. What else are you going to do with the money? Money in the bank don't mean a doggone thing, if it isn't taking care of the people in the state of ND. What's the value of the worker in ND? If you're not going to take care of us, get rid of it and let's hear of some whining and gnashing of teeth. I knew the love boat that sailed through here this morning was going to sink.

S Klein: We brought our lifeboats in for this last one.

S Andrist: Question for Sandy. If we might look at adding 3 or 2 or 1, which area would be most important expertise for your board to have? IT, Chief Financial Officer, health care related business, and one in insurance-related business?

Sandy B: If I had to choose, it would be insurance. This is ME and not the board.

S Andrist: If you had to choose two, who would the second be?

Sandy B: IT dept.

S Klein: Hearing this number about the 100 million dollars that will go back to employees.

Sandy B: 140% for the board to make a decision. Funds are there for 2 different reasons. 1. we have enough money to pay every single claim with every single benefit with no questions asked, that's why the fund's that large. Unfortunately, what we have to remember is that it's going to take a billion two to pay our debts in long-term liabilities. Now when you discount that that money that will work in the marketplace. 100 million's been given back, 35 million in matching grants, 15 million dollars for purchase loans and the organization is working to create a continuing appropriation for the ability to provide assistance to the medical profession of occupational medicine to get more well-qualified doctors for injured workers that do medical for work-related injuries, so that would take some amount of money and in the end, the market is doing well. It's there because the market did well, if the market plunges, it's gone.]

S Klein: So what you're saying that if you quit doing business today, it would cost, and you continue to pay out all the claimants that we have on file, it would cost a billion dollars?

Sandy B: Roughly a billion two.

CLOSE

Dave Kemnitz had one color copy of his testimony. Copies were made in black and white on copier and distributed to committee members.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No: **HB 1460 B**

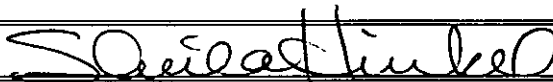
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 14, 2007**

Recorder Job Number: **5044**

Committee Clerk Signature



WSI Board members selection:

S Klein: Deals with the membership on the board of WSI. Senator Hacker, you have some amendments?

S Potter: *A young girl comes in the door in a wheelchair and gets assistance from the Senators in getting through the door. This is my shadow, Jessie Briedenbach.*

S Hacker: *Hands out his amendment.*

S Heitkamp: Does this put it back into the Governor's control?

S Hacker: Not quite.

S Heitkamp: This is like a hot cup of coffee, just let it cool down.

S Klein: Would you give an explanation of your amendments?

S Hacker: This eliminates the first section of the bill dealing with non-voting members. Only changes how that nominating committee is made up that they are with Chamber of Commerce.. *Reads from the amendment* Really a voluntary basis. If they'd like to put someone forward to be selected, they bring the names up as they can. Open forum.

S Klein: These names would be submitted to the Governor?

S Hacker: Yes. Simple amendment.

S Heitkamp: So we're not mandating that a person from these groups gets on the board, we're just saying that these groups have access to the Governor to make suggestions?

S Hacker: Yes

S Andrist: It adds the 3 new members that makes them voting members?

S Hacker: No, no deletes them all. No 3 new members.

S Heitkamp: What's stopping these folks from making suggestions to the Governor now? The people who I read here have pretty good access now. If you take the 3 members off, and you say, "you all have access to the governor to make a suggestion," why not now?

S Hacker: It clarifies that these organizations can offer a list.

S Klein: Currently, those 6 members whose names need to be brought forward, how are they currently selected? The board goes out and solicits names, those names come to the board, the board picks 3.

S Heitkamp: We're talking about the WSI board, who's going to sit on the board? When you talk about these organizations, did the bringer of the amendment have the opportunity to visit with those organizations. Because if I'm head of the Motor Carriers, the last thing in the world I want to do is get involved in WSI. Are they all signed off on this?

S Hacker: Not every single one of them, I couldn't get a hold of them.

S Klein: The intent of S Hacker just to try to touch every business organization that would have a dog in the fight in the employers side of representing all these industries. You'd have some high payers.

S Hacker: Was just trying to involve different industries to be more representative on the list. This is voluntary, they can submit names, they don't have to.

S Klein: The coordinating committee would be selected from all those groups and then they would solicit their organizations if no one comes forward from Motor Carriers, then somebody from....

S Hacker: If someone doesn't submit names, someone else will.

S Klein: So the non-voting members are not only non-voting, they are GONE.

S Hacker: Yes

S Andrist: I'm trying to absorb these amendments, it seems to me that Senator Heitkamp's observation that the bill really does nothing and kills the bill if we do this, because these groups can get together if they really care about this board and talk to the Governor anyway, his door is always open.

S Klein: S Hacker's idea was the fact that the Chamber was that advocate, that's what the bill addresses.

S Andrist: It might include the language...

S Hacker: Keep in mind is that this is not WSI picking people, those industries are sourcing people on the application for the Governor. Trying to avoid that situation we've been talking about for a couple of months on how the board picks their people. The mechanism is changed. I didn't want that type of organization the power where they could select, and ultimately, it could be different who they may select. This provides a little more open process for soliciting individuals.

S Andrist: I'm thinking the last part improves it. I had the sense that Sandy Blunt thought it was good idea for a few members might be quite useful.

S Klein: That's why we're going to deliberate on this.

S Wanzek: I see it has some value in the sense, what you're trying to do is cast a wider net. This may engage more people in the business environment. It doesn't limit who the board selects.

S Hacker: You don't have to be in the Chamber to offer names.

S Andrist: Could we divide the proposed amendments proposed on 1, 2, 3 and 4 ?

S Heitkamp: You don't want to work the bill today?

S Klein: No, not today. I'd like as much input as possible today.

S Potter: On the S Hacker amendment, this committee needs to drive this bus of some kind of reform with WSI to come up with something that changes the board of directors, something, we need to have a product, because we're the only ones that can do it. We can't leave this session saying "everything is fine." I believe S Hacker's amendments are an improvement on the current system and should have been in place in the first place. The fact that the board appoints themselves is ludicrous. This ought to be the way it is, but it's such an incremental change that I don't think it's a real change. I don't think they do enough for us to say, "now we've done our job." I don't believe my amendments are going to sail through, more than it is a realistic attempt to pass by amendments. There's got to be something that... "can't we all just get along?" That we should be able to find some kind of reforms.

S Klein: Would you go over your amendments, then?

S Potter: My amendments are an attempt to put in a "fairer" system. Most of them, the things on the first page, restores what we passed in SB 2073, 1460 doesn't have that. Where we put on the second worker has to have been a claimant and the changes that came to us from the agency about employers and their annual premiums and the risk management program. The essential thing is, it makes the board : four employer members, four employee members and 2 at large members. Doesn't affect how the board chooses the employer members, they would

continue to be the board picks, recommendations to the governor. But the Governor would have authority over the employee members and the at large members, making it somewhat more balanced. The board would be 4, 4, 2, and 1 – Medical association

S Hacker: Of the 4 employee selected by the Governor, why do we need... if two have to have received benefits?

S Potter: Yes, and you would not have to pick organized labor, they would just have to be employee representatives. Either organized or not.

S Hacker: What about an employee with is own business?

S Potter: He could pick you.

S Klein Those names brought fourth by the board?

S Potter: That would continue. I didn't affect that with my amendments. Employee names would come out of the Governor's head.

S Heitkamp: Why did we leave it to the Governor's discretion on the employees?

S Potter: So the Governor has a larger roll in control of the organization.

S Heitkamp: You didn't change it, so when you say that, the Governor would make suggestions of the employees and the board would make the decision?

S Potter: The Governor would appoint, which he does now. He does select the replacement members for the...

S Heitkamp: He makes suggestions to the board.

S Potter: No, he appoints them. It's only the employer members the board names.....no?

Shaking of heads "no" in the audience.

S Klein: Do we need some clarification? Do we have someone in the room that can answer that? Is that OK?

S Heitkamp: We're not going to debate anyway.

S Potter: You're right, you're right.

S Klein: We're going to continue to work on this and the additional crafting. Any other questions you need answered?

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460 C

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 21, 2007**

Recorder Job Number: **5372**

Committee Clerk Signature



WSI Board – Part 3:

S Hacker handed out proposed amendments

S Klein: Discuss 1460, since here last talked about some amendments, S Potter, S Hacker delivered some and we are at that stage.

S Potter: Why bother, I'll take them to the floor.

S Hacker: Do you want me to walk through the amendments?

S Klein: S Hacker has handed out the amendments, 70708.0206.

S Hacker: *Covered Amendments to the bill.*

I worked with members from the house to get a feel where we're going to be at on the two bills, they have agreed that this is the middle ground. The first third of the front page is to eliminate section one of the current bill which deals with those 3 non-voting members, etc., you take that out. The next 3rd of the page amendments states that if that employer representative that has the amount of premiums by that classification, whatever they are appointed under, they get to serve their entire terms out, in case that employer changes the amount of premiums that they have. If they change slightly or even drastically, they can still do another

term, that goes from 3 terms to 2 terms. Bottom part is 3 amendments, line 31, that just restates the fact that whatever they are appointed under that they stand to that.

Also eliminates the Risk Management program which the Legislature has intended to eliminate, the problem was that when they eliminated that, they never adjusted the position, so top of page 4, it increases the employer at large to two, and creates a place for that employer member to go. So you would have 4 employers at premium levels and 2 at large, 6 employer members. *Continues with the bill 3:27m*

Need experience on the board.

S Klein: Wasn't that also a recommendation on the Octagon report?

S Hacker: Yes. They recommend that someone on that board should have gone through process. They would have gone through the benefits and loss.

Page 4, line 25, if they don't want to be there, they don't have to be there.

Page 5, risk management program. Not taking the employee member because they have a wage loss record.

S Potter to S Hacker: Governor calls together these groups and they would be the nominating committee?

S Hacker: Yes

S Potter: Is the National Federation of independent business, is that a National organization, or is there a state affiliate?

S Hacker: Yes, I think there is a state chapter.

S Potter: I don't know how I feel on the amendments. My position is that there is problem in the board being so employer-heavy. I know they pay the premiums, but the employees have given up the right to sue. To have this imbalance in a super majority of the employers, we're not addressing this, I don't know how I feel what the amendments will do. I thought the

amendments would balance it out, I intended to offer them on the floor, 4 employees, 4 employers.

S Andrist: I don't really feel, I think it's secondary of who these people represent. They aren't talking about CLAIMS, they're talking about policy and setting direction for the company. Whatever process we get in place, we try this for 2 years, we need the strongest possible board member, those who can best serve. Employees, they don't have a dog in the fight unless they happen to have been injured. The idea that the employers aren't going to be looking after employees; they're going to do it through POLICY.

S Heitkamp: Last session, we had a huge balance at WSI, it was fiscally solid, Dave MacGyver, with the ND Chamber of Commerce opposed any suggestions that would help workers all throughout the session, said how they had to protect the fund. Then a delayed bill came in for returns on the funds to the employers. I've got a problem with this. I've got a problem with loading the board up with those kind of people if that's what there philosophy is. This was taking of the right to sue, for employees. The sponsor came in with a good heart. I give Bob credit, he didn't gloss over the performance audit. Amendments like this will not solve the problem. A bill will not solve the problem. Putting a non-voting member on the board does not sit well with me, and I would assume with a lot of members of the board.

Accountability to the Governor and People of ND is where this needs to go, it needs to have someone responsible. When you agree to that, THEN I'll agree with S. Andrist, then and only then. Amendments put people into position of strength who last time did not earn my trust.

S Potter: *to S Hacker,* You're not touching the medical association, they still maintain voting?

S Hacker: No

S Potter: How does this relate to the, we had the second employee representative as a claimant? What does this do to that?

S Hacker: We have bills over in the House, maybe Mr. Kemnitz might know what they do with that type of change, they blend it in.

S Potter: On the process, I know we're talking to the house IBL people about this, to get a compromise, that's what happens on Conference Committee. We could take a stance with them rather than agreeing to settle for the minimum.

S Klein: Over the years, I've attempted to fix things before they get to conference and am not sure this is the final product. They have a tendency to have a different way of looking at things and change things. Do you want to act on it or come back?

S Heitkamp: If you've got the votes to move the amendment, go ahead and do it.

Motion to move the Amendments by S Wanzek

Second by S Hacker

Roll Call for DO PASS AMENDMENTS – 5-2-0 – Passed

Motion for DO PASS AS AMENDED by S Wanzek

Second by S Andrist

S Wanzek: I know that S Heitkamp feels that we need to go to a point of accountability and certainly having the Governor being in control, we would have more accountability, it then becomes a political accountability. When we established this board in the first place, it was for consistency in the long term and eliminate the political ramifications when going from one Governor to the next. There is an attempt to provide a step in the right direction.

S Klein: S Hacker, it's been reduced to 2-4 yr terms?

S Hacker: Yes

S Heitkamp: I think that politics makes for strange bedfellows, Gov. Schaefer would have disagreed, between 2005 – 2007 the fund started going up and looking stronger when it was taken away. It never got a chance to play out, to see where it was going, and he feels there is

a betrayal there where the reforms could play out. The pendulum swung one time too far and then the other. The delayed bill was one of the most arrogant bills of anything I ever saw in the legislature, we were told in this committee, is the fund was in danger and can't mess with it and then the head of WSI and Majority Leader in the House said we're going to send money back. We lost good faith in WSI and the system on that day. I oppose it, I think Ed Schaefer and I aren't going camping together.

S Andrist: I've been here since 1993, WSI we've seen the best of times and worst of times on the gubernatorial direction system, they were in a world of hurt in 1980's, we've plugged the leaks, tightened the ship, we had huge increases in the premium at the same time due to medicine costs. Since we went to the 90s and got the company back to solvency, I want to see the workers served, and at the same time, don't want to get back into the trap of throwing benefits willy-nilly, it is a balancing act no matter how we do it. I told Governor Schaefer, he had vetoed the bill, I told him that if we knew that Governor Schaefer was going to be in that office we'd probably never had that bill, but we didn't know what we were going to get for Governor, and quite frankly, the thing unraveled under Governor Sinner's watch.

S Heitkamp: In response to that, there's a lot of comments about Governor Sinner's watch, there's a lot of comments about Governor Schaefer, I heard comments about how Governor Schaefer would call over to WSI and say, "look, just pay it" as if he was the head of it. I have a hard time seeing Governor Schaefer do that. I've heard those comments from people at WSI. Willy-nilly – that's what some of the reform measures did. This bill is about is how we deal with WSI and if the fox is in charge of the chicken coop. Average. businesses that we represent, they are not as interested in money back, as protection of the workers. Biggest problem, see 1.4 billion, and if you sit on the committee, you can see problem. They need to sort through problems.

S Potter: I have 1 constituent that thinks the agency is good, I have employers who are livid when employees get hurt and treated inside and outside of WSI. Inside think its dictatorial system, they're frightened, people outside think that they're treated special. Governance is the problem. I don't believe this gets to the problem really, I don't like the bill, I'm going to oppose the bill, but support the amendments.

S Heitkamp: All of us who paid the BC/BS premium need to watch this, people who don't want to deal with WSI would rather use their own insurance..

S Behm: There is not enough accountability. It is running rough shod. People who are injured are even scared to report something because they are so vicious with them. They threaten to go to their employment and have them fire them. That shouldn't be.

S Klein: I haven't heard those stories. We all get people talking to us differently.

S Andrist: I've never heard a complaint from a constituent whose claim has been accepted. I think they let the claims get bogged down in agency. They need to act quickly. Photographer was hurt, they helped him after his horrendous injury, they helped him get fixed so he could get back to work.

S Wanzek: I was in Legislature under governor's control and I remember betting there were just as many complaints, angry and bitter. The board sets the policy or listens to claims If something unfortunate happens. I don't know if there is a perfect system.

Motion for a DO PASS AS AMENDED on HB 1460 4-3-0 Passed

Carrier: Hacker

March 6, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, line 10, overstrike "Six" and insert immediately thereafter "Four"

Page 1, line 11, overstrike the comma and insert immediately thereafter " At the time of appointment," and overstrike "which" and insert immediately thereafter "the employer representatives"

Page 1, line 12, overstrike ", at least two of which" and insert immediately thereafter " At the time of appointment, one employer representative, overstrike "employers" and insert immediately thereafter "an employer", and after "with" insert "an"

Page 1, line 13, overstrike "premiums" and insert immediately thereafter "premium", overstrike "at least", and overstrike "of"

Page 1, line 14, overstrike "which" and insert immediately thereafter "employer representative"

Page 1, line 15, overstrike "at least" and insert immediately thereafter "and" and overstrike "of which" and insert immediately thereafter "employer representative"

Page 1, line 16, overstrike ", and at"

Page 1, line 17, overstrike "least one" and insert immediately thereafter " One employer representative must be an"

Page 1, line 20, overstrike "Three" and insert immediately thereafter "Four", overstrike "; at" and insert immediately thereafter " At", and overstrike "one member" and insert immediately thereafter "two employee representatives"

Page 1, line 21, overstrike "; and at least one member" and insert immediately thereafter " One employee representative"

Page 1, line 22, overstrike "represent" and insert immediately thereafter "be a representative of"

Page 1, line 23, after the first "member" insert "represents and"

Page 2, line 1, overstrike "One member is a member" and insert immediately thereafter "Two members are members" and overstrike "a resident" and insert immediately thereafter "residents"

Page 2, line 11, after "consecutive" insert "full"

Page 2, line 12, remove "a." and overstrike "A departing member representing an employer must be replaced by a"

Page 2, overstrike lines 13 and 14

Page 2, line 15, overstrike "departing member." and insert immediately thereafter "a." and overstrike "appoint" and insert immediately thereafter "select"

Page 2, line 17, overstrike "the"

Page 2, line 20, replace "greater North Dakota chamber of commerce" with "an organization that is statewide in scope and which represents the interest of businesses"

Page 2, line 21, remove "working together with other business organizations"

Page 2, line 27, remove "two"

Page 2, line 29, overstrike "member" and insert immediately thereafter "members"

Page 3, line 5, replace "the greater North Dakota" with "an organization that is statewide in scope and which represents the interest of businesses in"

Page 3, remove line 6

Page 3, remove lines 20 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 9

Page 5, line 10, replace "Section 1 of this" with "This"

Page 5, line 11, replace "section 1 of" with "the consecutive terms limitations under"

Page 5, line 13, remove "section 1 of"

Page 5, line 14, after the period insert "Under this Act, the initial terms of the two new employee representatives begin on August 1, 2007, and may be shorter than four years to ensure staggered terms that expire December 31 of an even-numbered year."

Page 5, remove lines 15 through 18

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and
insert immediately thereafter "Of these members,"

Page 4, line 6, after "labor" insert "and two must have received workforce safety and insurance
benefits"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating
committee appointed by the governor, composed of representatives from the associated
general contractors of North Dakota, the North Dakota petroleum council, the greater
North Dakota chamber of commerce, the North Dakota motor carriers association, the
North Dakota healthcare association, the lignite energy council, and other statewide
business interests."

Page 4, remove line 26

Page 5, line 10, replace "Section 1 of this" with "This"

Page 5, line 11, remove "section 1 of"

Page 5, line 13, remove "Under section 1 of this Act, the"

Page 5, remove lines 14 through 18

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HB 1460

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 4, overstrike "the" and insert immediately thereafter "a"

Page 4, line 25, remove "greater North Dakota chamber of commerce"

Page 4, line 26, remove "working together with other business organizations in the state" with "coordinating committee comprised of representatives from the Association of General Contractors, North Dakota petroleum council, North Dakota chamber of commerce, North Dakota motor carriers association, North Dakota health care association, North Dakota lignite council, and other statewide business interests"

HAEKER 3-14-06 #1 1460

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at" and insert immediately thereafter ". At" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's appointment, were" and overstrike the comma and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment, was at least"

Page 3, line 30, overstrike the comma and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment, was" and overstrike the comma and insert immediately thereafter an underscored semicolon

Page 4, line 1, overstrike "one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, after the second "members" insert "whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and board members whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 10, replace "Section 1 of this" with "This"

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history."

Page 5, remove lines 12 through 18

Renumber accordingly

Date: 0-1-01

Roll Call Vote : _____

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO.

Senate INDUSTRY BUSINESS & LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]

Total	Yes
-------	-----

No

Absent

Floor Assignment

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

Date: 3-21-07

Roll Call Vote: 2 **FINAL**

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1460

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass. As Amended

Motion Made By Wanzek Seconded By Andrist

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm		✓
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp		✓
Senator John Andrist	✓		Senator Tracy Potter		✓
Senator Terry Wanzek	✓				

Total Yes 4 No 3 **PASSES**

Absent _____

Floor Assignment Hacker

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

REPORT OF STANDING COMMITTEE

HB 1460, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1460 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter ". Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, after the second "members" insert "whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and board members whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 10, replace "Section 1 of this" with "This"

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history."

Page 5, remove lines 12 through 18

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1460

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

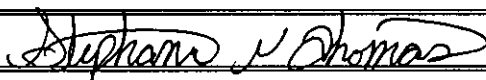
House Industry, Business and Labor Committee

☒ Check here for Conference Committee

Hearing Date: April 17, 2007

Recorder Job Number: 6090

Committee Clerk Signature



Minutes:

Chair Johnson opened the conference committee on HB 1460.

Attending: Rep. Johnson, Rep. Keiser, Rep. Boe, Sen. Klein, Sen. Hacker, Sen. Potter

Sen. Hacker: If you were to start on the 0.300 version of the bill, the first thing the Senate did was removed section 1 of the bill that includes those voting and nonvoting members for 2 years, essentially leaving sections 2, 3, 4, and 5. In section 2, dealing with employer representation on the WSI board, some language was added to tighten up the fact that when a member is appointed based on premium level, that it's at initial appointment. That way if there premium level changes, they don't get booted of the board, or unqualified for that position. Then WSI has eliminated their Risk Management Program, however we had a risk management individual on the board, that's by statute, so that was changed into making that individual employer at large. On the 0.400 version, the next major change is on super subsection (b) of subsection 1 of section 2 dealing with the three employee members, and the language change of the three employee members. One must represent organized labor, that's currently in statute. There was some question, and clarification done by the Attorney General that the qualifications cannot overlap on the same individual by his opinion, so we referenced that by putting that in statute, and one other member must represent Workforce Safety &

Insurance wage loss, they must have received wage loss benefits within the preceding 10 years, and this is a direct recommendation that came from the Octagon. Then the next thing which is the grandfather clause for the board members, as the House sent the bill over it had a 2 consecutive terms, and the next point is a change in how the individuals are solicited for the employer membership, not the employer at large, but the other employer. This language here creates a coordinating committee appointed by the Governor. What was sent over was the Chamber of Commerce essentially, and there was some groups that sort of said that they were not part of the Chamber of Commerce, so really what this was to just try to cast a wide net to catch different sectors, and different industries to have a voice at the table, including the AGC Chamber, Petroleum Council, Motor Carriers, North Care Healthcare Association, and the one group that said they're not really part of the Chamber NFIB. One of the other requests was that the Governor may reject a list of potential candidates, and request according committee to submit a new list of potential candidates.

Rep. Keiser: Who requested that?

Sen. Hacker: The Governor had mentioned that, because the House sent over potential, and the Senate incurred that so it said potential candidates on page 2. We had spoken in committee so that meant that they could reject that list, and so we clarified that with the last sentence in that paragraph.

Rep. Keiser: So, the Governor's Office basically wanted this?

Sen. Hacker: Yes. Then the medical association will produce a list of three potential candidates that the Governor shall select from, instead of the Governor just going out and trying to find somebody. So, he's not mandated to pick the individual that they put forward.

Section 2 deals with spending authority.

Rep. Johnson: On page 3, that section (d), there the Governor can't reject any of the candidates?

Sen. Hacker: That's correct.

Rep. Johnson: So, in section (a) they keep it in, but in section (d) they couldn't.

Sen. Hacker: Yes, it was just never really brought to light. I just noticed that right now.

Rep. Boe: Is this anyplace else where the Governor can reject? He makes all sorts of appointments, can he reject any of them other for any other board appointments that he needs?

Sen. Potter: I know that used to be true with the Health Council, I don't know if it's still the case, but the various medical industry people would project names, and the Governor could take them, or reject them all, and ask for a new list.

Rep. Keiser: I do think in any reports where the Governor can collect, where it's the Governor's responsibility to select; the Governor can solicit names, and can reject them.

Rep. Boe: He would know that was the people that were submitting the names, and then we'd go back to the drawing board and find a new group of names. In this case, the Governor is going to find somebody else to come up with a list?

Rep. Keiser: No.

Rep. Boe: He's just telling them just to come back with another batch.

Sen. Potter: That's correct.

Sen. Hacker: Section 2 deals with spending authority, and limits the scope of WSI to the spending authority that other executive branch agencies have.

Rep. Keiser: Who wanted this?

Sen. Hacker: This was driven by the Senate, and a lot of the Republican Caucus, and some of the Democratic Caucus that really wanted to vote for that.

Rep. Johnson: The intent here is to do what?

Sen. Hacker: The intent there was a budget bill that was going into conference, and this was in response to that budget bill. It would allow for the spending authority at WSI to special funds of \$50,000, a more broad scope.

Rep. Johnson: That's gone now?

Sen. Hacker: Yes, and signed by the Governor.

Sen. Potter: I'm not sure where this happened in the process, and it may just be the bill itself, but it seems to me that some of the language changes regarding the employee members, for instance on page 2 section (b) of the 0.400 version, it used to say that at least one member must represent organized labor, and now it says of the three, one member must represent organized labor. I'm wondering if that's excluding the other two from being members of unions. It comes up again on page 3 with line 13 where it says the Governor shall select the two non organized labor employees. I'm just wondering if that was intended, or if that's accidental, or if I'm reading too much into it as I have sometimes wanted to do.

Rep. Keiser: I don't think that was the intent, but it certainly reads that way. The law has always asked organized labor to provide for sure one member, but I don't think it was ever intended that it be limited sole to one member.

Sen. Hacker: When we tightened up the language with the employee members and one other member must have received WSI benefits, this was brought to me by a concern from organized labor, and so that was the only change that they mentioned. I don't know if they over read it as well, and not seen that, or if they're OK with that. I believe if they would have known of that at the time, and it was a problem, they probably would have mentioned can you tighten this piece up to, or changed this slightly. It obviously wasn't the intent of it.

Rep. Johnson: I think on page 3 lines 13 and 14; I don't think that we ever talked about having two non organized labor employees, because I thought we were just having the employee representatives that they could be from organized labor, or non organized labor. I don't think that any point we had said that it had to be non organized.

Sen. Potter: That language was actually somewhat contradictory in the existing law, because in this section what we're talking about is it says the Governor shall select a replacement member for a departing non organized labor employee. On the other it said there must be at least one organized labor employee, and this sort of implies that the other two aren't, but it doesn't state it. I think now we closed that up by saying one must represent organized labor, and I think we probably need to stick the words at least back in there if we all agree with one of these existing things, and just let it go.

Rep. Keiser: On page 3 the real problem as I see it is on line 14, the two non organized labors. That needs to be fixed. The other section on page 2 reads fine for me, it says at least one must be, it doesn't exclude the other from being, but one must be. On line 3, at least as I read that on section 14, those other two have to be non organized, it's not optional.

Rep. Keiser: The original language was OK, but when it got amended it created that discrepancy.

Sen. Klein: Your suggestion is to strike the words non organized, so it select the other labor employee representatives, and a member at large, just delete non organized labor, and replace that with other.

Rep. Keiser: I would suggest that on page 3, that the Governor may reject both candidates, the Governor shouldn't be able to reject all candidates, regardless of who's nominated.

Sen. Hacker: Maybe we should put in a subsection (e), or subsection 2. The Governor may reject any potential candidates presented.

Rep. Keiser: So, we would strike it from lines 5 and 6, and remove that concept bound to subsection (e) following subsection (d), and it would apply to every group that nominates three names to the Governor.

Rep. Johnson: Section 2 on page 3 under the spending authority and the limited spending authority, this would put in there a spending limitation under an executive branch limitation?

Sen. Hacker: That's correct. They would have the same authority as any other agency, so when it comes to retirement parties, or birthday things, etc., they would still have that same flexibility. It exempted out the director, and members of the board, because we have become public officials, and that goes as kind of a middle section then, so they can continue to provide education and training to the board members, and the director.

Rep. Keiser: I think this is the area, at least speaking for myself; I have the most problems with, because we very intentionally crafted legislation in previous sessions to make them a separate agency with different operating guidelines. We took them out of Central Personal; we made them a semi-public private entity, gave them direction under the board, and did those kinds of things. This kind of reverses all of that, as I read it.

Rep. Johnson: I'm not real clear in what would happen in there.

Sen. Klein: My biggest question probably is in that spending authority, we have given them the opportunity for pay for performance. Is that gone now?

Sen. Hacker: This was crafted with quite a bit of time spent up in council, and we did the best we could to avoid that. There thoughts about this are that this does not affect performance.

Rep. Johnson: With WSI here, I think I'd like to ask them their reading on that to see if it's acceptable and if that does or does not allow them to do the pay for performance.

Jim Long, WSI: Originally, we understood the intent of the amendment was to remove the additional spending provision that was approved in the appropriation. We looked at it, and I

balanced it against your reviewed articles regarding pay for performance systems, and he also looked at it, and the best that we can come up with is that it leaves out our ability to incentivize employees, and to leave pay for performance up to interpretation. So, we would like to handout a proposed amendment that would still keep the actual spirit of what was wanted as far as changes to the HB 1460, but still make it very clear that WSI has the ability to provide incentives in accordance with 65-02-01.2. We do think a little bit differently, as far as employees of the quarter, we believe firmly that in accordance there has to be some type of recognition for the employees, and sometimes that falls out of the law, and HRMS.

See proposed amendment for HB 1460.

Sen. Hacker: In section 2, it is pretty clear, and you're saying it is not clear. I believe it is very clear. It states any statement of legislative intent, statement of purpose, and other provision of law that is under title 65, and some HRMS code, and there is somewhere else in code that states pay for performance. You get to the bottom of that amendment, other than service awards, or other awards in the sense allowed under law inapplicable to executive branch agencies. I'm trying to figure out, what in the language is confusing?

Jim: I believe that what it comes down to is the specificity of what we're talking about within the actual amendment that would address the proposed statute, and based upon that a reasonable interpretation may be that you'd have to do things exactly the way that no organization who does not have the performance does, because it is in your law, and a more specific law that are the pay for performance statute.

Sen. Hacker: What section of code is that, they can just add the section?

Jim: 65-02-01.2

Rep. Keiser: Is this the full amendment you're proposing down at the bottom?

Jim: Yes.

Rep. Keiser: Currently, any other agency in the state, they cannot fund that unless they get Legislative Council approval?

Jim: This is based upon the other recommendations that we received in the performance audit. I'm not aware of any other agencies authority to do this, but then again I'm not knowledgeable on all the law. This is where we actually specifically address the incentives; in addition, unless a law critical to the executive branch agencies, including authorization provided in title 65 of the ND Century Code, the organization may not expend funds for the purposes of providing employee awards, or incentives. I believe Sen. Hacker, that this doesn't correct your concerns that they would be able to do this provisional spending, unless it was specifically discussed within title 65, which is a workers compensation section of the Century Code.

Sen. Hacker: I'm confused. It seems like we're just restating the law, it's already the law.

Jim: Yes, we're definitely restating the law, because we want to ensure that a more recent version of the statute doesn't come across that could be interpreted as to removing our authority in 65-02-01.2. We want to make sure that remains there to codify the law, because an interpretation would be that it wasn't specified specifically, and that we no longer have that authority.

Rep. Keiser: If I understand what you're saying is if you look at the bill in section 2 it reads not withstanding any other law enacted by our assembly of this session, any statement of legislative intent that might be found, any statement of purpose of amendment, or other provision of law that currently exists. You think that statement would exclude section 65.

Jim: I believe that it could be completely interpreted by somebody that it would. I want to make sure that WSI still has the ability to administer an effective date for the performance

system, because without that it would be very hard to motivate, and provide incentives to our employees warranted to their performance.

Sen. Klein: It is all about the lawyer's interpretation here. I'd like to run this past the council just to kind of get another feel for where we're going here. I think the incentive of the Senate was that we thought we had something, and I know we worked a little bit on this thing to get it to where we felt we'd still given them all that opportunity, and not taken that away. It's just one attorneys opinion drafting this, versus another one who has read this now.

Rep. Keiser: I think it's a good idea to run it by council.

Sen. Hacker: Did you talk to the chair of the Legislative Council? Is this something that they want?

Jim: I have not personally talked to the chairman of the Legislative Committee; however I do believe that person currently has the authority to approve legislative trips.

Sen. Potter: Do you see that providing awards in the Senate version on line 28, it's the providing awards. Is that the portion that you think inhibits your bill on your pay for performance?

Jim: No. I think what inhibits us would be the part that says like all other executive branch agencies, because we are different. Our pay for performance statute provides us to make sure that our incentives are in touch with what we can do, as much as the statute allows us to do, and we're actually going to serve as an intangible incentive to our employees.

Sen. Potter: The words applicable to the executive branch agencies relate directly back to providing awards, that's the way the sentence is written. So, it's the awards that are applicable to other executive branch agencies.

Jim: There is one specific agenda that I can give you, and it has to do with the time that you choose to work that the executive branch agencies typically will give at the 5, 10, 15, 25 year,

they'll give \$5.00 a year. However, WSI does give \$10.00 a year, and that is reviewed to read in the performance audit as being appropriate, because it ties into the performance statute.

We found that WSI hires employees that are from a different sector, and that's what really motivates them at a higher level. That's where we would be different, and would need our ability to properly motivate those folks.

Sen. Potter: I thought you just agreed with me that it's about the providing of awards that is the issue here.

Rep. Keiser: I think I do understand the issue here. I'll use the analogy, for example, we clearly passed legislation where we excluded WSI from Central Personal, that's the law, it was on the books. The last legislative session was the last bill that went through, and it was a 4% raise, and WSI was listed there. We had two bills that were in direct contradiction, but as the Attorney General properly ruled it is the last bill that passed that is law. Without reference to section 65, I can read this that section 65 doesn't apply, and the executive branch does apply. So, it's not clearly stated. What they're proposing is saying that we will do all that, but 65 remains in place. Rather than saying notwithstanding any other law, or statement of legislative intent, or statement of purpose, or other provision of law, which would be 65. It should be clearly stated if we decide we want 65-02-01.2 to remain in place, that providing explicit language might be preferable, but I think you should run it by Council, and ask the questions.

Rep. Johnson: I think we've got a couple of amendments that we'll let the drafting begin, and I think we agreed to go from term to terms on page 4, and also need to clean up the non organized labor employee, and then created (e) for rejecting all the kinds of candidates, and then take time to talk to Legislative Council about the new proposed language, and there take on that. **Conference Committee adjourned**

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

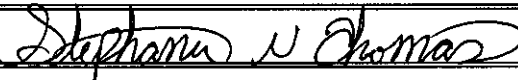
House Industry, Business and Labor Committee

☒ Check here for Conference Committee

Hearing Date: April 19, 2007

Recorder Job Number: 6167

Committee Clerk Signature



Minutes:

Rep. Johnson opened the conference committee on HB 1460. Yesterday afternoon, Sen. Klein, Jennifer Clark from Legislative Council, Gordy Smith from the Auditors Office, and Tim Wahlin from WSI sat down and tried to work on the language in that one section to make sure the pay for performance is still allowable, but things that we were concerned about were the flowers, and the gift cards, that they would be non allowable. So, that's the kind of amendments we have.

See proposed amendment 70708.0211.

Rep. Johnson: This is going back to what the Senate amended onto the bill prior. The areas that we changed from what we talked about last time is on page 2 of the amendment, section (e). It removed it from that one section, and then put it into any of the groups the Governor could do that. It's kind of a major change, right now the board proposes names to the Governor that the board chooses. This is having other entities propose the name, and the Governor can select, or reject any of the members that are on the board. Then there was the question that Sen. Potter had about representing organized labor, which would be on the 0.200 bill on page 5 line 2 with the overstrike the nonorganized labor. It says after the page 5 line 2, it should be page 5 line 3, there's an error on the amendment there. It would be the Governor

shall select the employee representatives who do not represent organized labor, and the member at large. They have to be nonorganized labor employees. Then the section 2 on page 2 of the amendment, that's the spending authority limit. The first part of the language is what happened in the Senate, and the only additional language is that last sentence that starts for purposes of this section award does not include a nonwage cash disbursement to an organization employee through a performance based system for employee recognition. That would allow them to do their \$250 dollar employee of the quarter recognition idea still.

Sen. Klein: So, that last line sows that up then?

Rep. Johnson: They could do a cash disbursement that didn't go on their salary. That's what that nonwage cash disbursement means. If they give the \$250 it doesn't automatically go onto their salary, it would just be a one time thing.

Sen. Klein: So, it's similar to this spending authority language that the Senate put on that added that last sentence.

Rep. Johnson: Right, exactly.

Sen. Klein: Before we act on this, I'd like to check that out.

Sen. Hacker: If they give out gift cards sometimes, do you know how that would fit in offhand?

Rep. Johnson: When I was meeting yesterday to kind of ask specifically about the gift cards, this would be a cash disbursement. Gift cards would not be permissible. The flowers would not be permissible.

Sen. Hacker: So, then gift cards to say Applebee's. What I'm wondering about is say the organization does very well as a whole, and they want to reward, let's just say the claims department, because there's a lot of new employees in the claims department. Let's say they had a good quarter, or a good half year, and they probably wouldn't want to necessarily give

\$200 in cash to everybody, but rather would like to give them all a gift card for \$40 or something on a quarter. Is that flexibility going to be hard to come by under this?

Rep. Johnson: That would not be possible. With this language, it would not allow gift cards. This would be cash disbursement, period, so there would always be a check, paper trail. The auditor said that would give the follow through on it then.

Sen. Potter: The lawyers that were together, did they suggest that bonuses were in any way referenced by this, because bonuses are not a nonwage disbursement, are they? Aren't they considered part of your wages eventually? So, nothing in this prohibits them from providing bonuses in their pay for performance?

Rep. Johnson: That's the way I understand it, but that would then be considered part of their wages, and would be a taxable income fund.

Sen. Klein: I don't recall the bonus discussion, which would be another point that I'd like to find out on. When I was there, there was a discussion about the fact that that's what they use, they've used it forever, those incentive cards, those gift cards. Under the Senate amendments, it pretty well eliminated that, and they understood that, but the issue there was 3 people that said the Senate language was OK, and 1 person who said it wasn't clear enough, so this is the language then I guess they came up to address that. I think I need to run this by one person.

Conference committee adjourned.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

House Industry, Business and Labor Committee

☒ Check here for Conference Committee

Hearing Date: April 20, 2007

Recorder Job Number: 6188, 6208

Committee Clerk Signature

Stephanie N. Thomas

Minutes:

Chair Johnson opened the conference committee on HB 1460. When we left yesterday, there were some questions on the amendments if the wording was right.

Sen. Klein: We are correct, and that language does mean that they can continue to pay a performance award, but they can't incentivize in other ways. They still have the bonuses, which are a salary issue, but performance awards are more of an award. I guess that's what that says. I believe in visiting with Rep. Boe, you got that same interpretation?

Rep. Boe: Yes, I went up and saw Jennifer, and had her explain to me exactly what that meant, and she said that would do what we wanted it to do.

Sen. Potter: I have a concern about this, and just in the last couple of days it appears to me, and I have trouble reading this and understanding precisely what we're doing, but what I don't want us to be doing is saying that the actions for which there were indictments handed down this week are going to be legal in the future, and is that what's seen here? Is that what we're doing here, or is it not?

Sen. Klein: It would be my understanding that the indictment thing was handled in the Senate, and continues to be gone with the card issue, or flower issue. Those are all gone.

The indictment didn't center on the pay for performance question. The idea was not to strip

that initially, and depending on which lawyer you talk to, the Senate didn't think they had, but there was a 3 to 2 decision that it did, so that's kind of how more clarity needed to be put in there. To present this doesn't look real, it's clear, but apparently isn't very clear now, and that's why I think in discussions the Auditors Office was involved to make sure we were clearly stating how we had addressed in the Senate, and how we would continue to make sure that was what we really wanted to do. I think we've addressed that earlier, this just allows what we believe we let happen in the form of cash, which would be recorded on their W-2, I believe, and also have receipts so you know every one had got that.

Sen. Potter: If that's clear. I just want to make sure that our intent was clear, that we're not trying to minimize it by an action after the fact what took place before, because I'd hate to have that end up in court that the legislature wasn't very serious about enforcing the law, that they've changed it so this wasn't that serious of an offence. I want to make sure that's not what we're doing if that's the case. I do want to offer another amendment subsequent to this, unfortunately I don't have it here, but I'd be glad to explain it when we happen to move along.

Rep. Keiser: I would move that the Senate recede from their amendments, and adopt the amendment .0211.

Sen. Klein: Second.

Rep. Johnson: There was one correction on the amendment.

Rep. Keiser: I move the amendment with that correction where it says page 4, and it should be page 5 line 3 after representatives insert who do not represent organized labor.

Roll call vote was taken, amendment adopted.

Sen. Hacker: I looked at this board structure for quite some time, and done a lot of work in this area, which is obvious when you look at a page of the amendments. So, I think that we've come along ways in what we've done in light of some of the charges that have come across in

the last few days. Lots of ideas run through people's minds that we should do this, or let's throw it back under the Governor, or all these sort of different ways of addressing. We're trying to look at a problem that we're not sure is a problem yet. We obviously have every god given person in this state and in this nation who has their right to a fair trial, and the judicial process, and not to speculate on the results or anything, and produce amendments that would lead towards that speculation I think is wrong. So, for the meantime I thought we've done a lot of work with the board structure, and how it works, and I think that we need to maybe throw out this whole process, look back and say what is it that we did? What does the board look like? How does the governing structure work for Workforce Safety & Insurance? Although we had the Octagon Report that looked at specific things that the board does or procedures, and gives recommendations on those sort of things, I don't think it's had a high enough level of discussion of how this governance stuff should really work, and is it right? Is that the way to go? I don't have an answer. I wasn't here when it was moved from the Governorship to an independent board, and I think we are making some fine tuning adjustments, and we're doing some great things in the bill that we have before us. With that in mind, I would like to just allow the legislature to step back, allow the judicial process to run its course, and in the meantime I think what we can do without having a knee-jerk reaction to things that have taken place in recent days, I think what we can do that would be a sound judgment from a legislative perspective is to really take a look at that governance, and how that works. So, I drafted an amendment to add a section 4 on to the bill as we have it dealing with the study of how this governance works.

See proposed amendment 70708.0215

I think this is an important step that we take at this time, and if changes are needed, then we can make the changes in 2 years. As of for today, we're not going to change the premium

levels, we're not going to change benefits, which have all been enhanced in the last 8-10 years, and so I think that taking a good look at it to make sure that we don't do things that could bring in the danger to the good progress that has been made. With that, I move the amendment .0215.

Sen. Klein: Second.

Rep. Keiser: Unfortunately, as I suggested that some of the members of the media, specifically in this room by Wednesday of yesterday, Mr. Blunt will be indicted, tried and convicted, and some of the media, and it certainly has been relatively and successfully, not allowing a fair opportunity for him to defend himself. Even today at the table we have discussions concerning all of the things that were wrong, and that's now it the courts, and I think we all have the responsibility to allow the courts, which is a separate branch of government to do their job, and not ourselves rush the judgment. I have a great sense of frustration in that the media has not covered what I think are very important changes that are contained in this bill. It may well be the case that they will cover after our work here, but this bill has already been through the House and the Senate. So, maybe that will change, but clearly we have addressed the changes in the governance of this agency. One of the major criticisms being that it was a self perpetuating board, that the board itself was nominating its own replacements. From a policy position and standpoint, the legislature has addressed that. No longer are they self perpetuating. The board will not be appointing themselves, or their successors. Very importantly, we have given the Governor some minimal authority over the board indirectly, and the names now from labor, from the medical community, and from the business community will be submitted to the Governor, and the Governor now if this bill passes has the authority to reject those names, and ask for a new set. So, we have given the Governor some oversight on who's going to be able to serve on this board. I personally don't

think the Governor is going to reject the names, because I think the names that have been submitted have been of outstanding quality, and I have no problems with that, and I don't think there's going to be a problem in the future. So, I think that what we have done in the legislation so far with the amendments is very significant. One of the other major changes that hasn't been reported was that we had board members that could serve 3 concurrent sessions, and we have now reduced that to 2. That's an important thing, I think. Number 1, I'm not sure why any board member wants to serve 3 concurrent sessions, because this is not an easy board to serve on, but it certainly provides some flexibility and perspective change on a more regular basis than we may have had in the past. So, all those things I support. I had the opportunity to understand, at least in concept what Sen. Hacker is proposing here in terms of a review, and I support that, although I would offer a substitute amendment, or an amendment to his amendment. I'm not sure if it's a friendly amendment, or a substitute. If you would look at amendment he has distributed on the 3rd line of the actual amendment where it says the method of governance within Workforce Safety & Insurance in a relationship between Workforce Safety & Insurance and the executive branch, and the inner relationship between the Workforce Safety and directors, etc. The scope of that is overwhelming, and I think we can get at it by simply substituting for that section study shall include governance changes made during the 2007 legislative session. Look at what we have done to the board, is it working? Has it accomplished what we hope it will accomplish in terms of policy, and leave the rest of the language in tact, but to strike that question of this proposed amendment that being the method of governance within Workforce Safety & Insurance, the inner relationship between Workforce Safety & Insurance, and the executive branch and the inner relationship between the Workforce Safety & Insurance board and director. I would just say study shall include governance changes made during the 2007 legislative session, because I think that gives us a

focus that's important. As we develop a report, bring it back to the council and say we thought there was some changes that should be made, we've made changes, are those changes working? Should there be further changes over what we've done? So, I would move that we either through friendly amendment or further amendment adopt that change.

Sen. Potter: Second for discussion purposes, but really we need to see it, and the same is going to be true in a minute. I think Rep. Keiser makes a pretty good case there for the language changes. I don't think it's harmful, and likely to be friendly. I wanted to speak just a second about the introduction to that. On the Senate floor on more than one occasion, I suggested that some of the activities that we've seen at WSI were inappropriate, and I now have to stop saying that, because it's no longer our business. That's now beyond us, and so that's no longer part of any of this discussion on what's talking place with the staff there. There is something about the board of directors that still needs to be addressed, and that to my mind is it's the business of suggesting that everything that's ever happened is a partisan, or political attack. These attacks now have ranged from the media to the republican state auditor, to the staff of the State Auditors Office, and now the States Attorney who I always refer to as the republican states attorney of Burleigh County, and to the Democratic Party, and in everywhere we've been looking. The board of directors has repeated this, and the chairman of the board has repeated this, and I think it's shown in the lack of the appropriate governance of a board. I both work for a board, and I'm on boards, and I know what a board is supposed to do. A board is supposed to actually analyze audits, and suggest whether or not there is something. They're supposed to dig into it. They're not supposed to throw up their hands and say no, there's no problem here. There's no problem here, the problem is with you, or it's an attack, or it's personal. This is consuming and has been really unfortunate, and so when we are concluded with this, I have an amendment that I want to talk about on that new basis.

Rep. Keiser: I think Sen. Potter raises some, I think important questions and issues, but I do want to say let's look at the performance of the board if that's an issue, and we should look at that. I applaud the board. An indictment was handed down on Wednesday at about 11:00, and that board met in an emergency session, and took action. The Governor's representative came to me later that afternoon, and we had an interesting discussion, and I don't want to speak for the Governor, because his representative wasn't speaking for him, and I said what would the Governor have done differently under those circumstances? What would have we done differently? Here is the board functioning exactly as the board should be functioning. That's a measure, another measure of disorganization, and we're going to see it now in the near future in how is that organization going to operate without their executive director? Has that executive director put into place a management team that is going to continue to run this agency efficiently, effectively, and well? I can say with some certainty that was not always the case when the previous executive directors left. The organization was like a ship afloat without a rudder. So, I'm interested to see how this board and the executive staff are going to operate in this interim. To see how effectively they are, and that should be part of our discussion as we do the study to make sure in examining the board, are they doing their job? I would argue that I'm very positive about the response of the board. I think the board acted exactly right, and they did it quickly, and I support everything that they did, every action they new. There maybe those that disagree with me, and that's fine, but I personally compliment the board for its action, and its operation as a board.

Sen. Potter: I think the quickness of the action on Wednesday was important, because one of the allegations, of course is that misuse of the agencies investigative arm, and we want to make sure it's the separation between the director being charged and staff. That was quick, and in terms of administrative leave with pay, I don't know what else you do. I can criticize it,

because it's a lot of money to go on vacation, and I don't want to make light of it, it's a tragic situation, and that's very unfortunate. Where the board I think failed was in those months between November, and April when we had been in front of the committee in our side, and asked the chairman what are you going to do about this situation? There's something clearly wrong here, whether it's criminal or not there's something inappropriate about sending people out to the library with driver's license photos investigating something that really has nothing to do with injured workers for claims, and he just stonewalled it, and said there's no trouble, and they patted the director on the back, and they went on. So, that's where I think Rep. Keiser the problem lies, not in their immediate action, I applaud that.

Sen. Klein: I think the amendments, and certainly the addition of what Rep. Keiser's adding, because we have made some significant changes if the bill should pass, that this is something we need to look at the direction we've gone. In all this, we sometimes forget about how good of a job that we're doing, what they're doing in the real life world up there, that business of providing benefits, and help to the injured workers of the state. That's not talked about. We're talking about things that are in the management side, the governance side, and that's probably maybe the direction we need here. So, I think we've done a great job there, and I think right now we got caught up in the administrative side, and this may help address that, so that's why I'm going to be supporting that.

Sen. Hacker: I just wanted to say that what the board did, I applaud them for getting together quickly, and doing those sort of things, but with an organization that large, I would expect nothing less of them, or any fortune 500 company. They all operate similar to that, because they're people, and they recognize problems. So, I'm glad they did the right thing; I wouldn't have expected less, however.

Rep. Keiser: One of the beauties I think of going forward with this examination is I think it's going to be very interesting, because I think business will be well represented at this review to talk about their perspective. We don't hear that. It certainly hurt labors perspective, it certainly hurt a group of injured workers perspective, and maybe the businesses won't come to these hearings, but my guess is that we're going to have a very significant presence of businesses representing their interest. As we know 100% of the funding for this agency comes from the businesses. This isn't sales tax money, it's not property tax, it's not income tax, it's not any tax other than the tax that the businesses are paying, and so I think businesses would welcome the opportunity to come and talk to a legislative policy committee relative to governance. I think it would be interesting to hear their side as well.

Sen. Klein: I think Rep. Keiser makes a point that often times we get caught up in this whole discussion about whose money is this, and we are. We're looking after the employers dollars here to, but it is employers premium dollars that we're really having a lot of this discussion over, and not the general publics dollars, and the fact that they done this in providing these dollars. This does address how this board is looking, and how they spend the employer's premium dollars, and business needs to be at that table, and I'm guessing that they probably will be.

Sen. Potter: It's a simply matter, all I'm suggesting is that we take the amendments as they're in front of us here, which I could move towards making the board more accountable, exactly the things that you said Rep. Keiser about the fact that the board being self appointed. That's inappropriate. Now we're fixing that in the length of the terms, and we're fixing that, but what I'd like to see is that we implement that as soon as we leave here, or whenever this bill becomes effective, that we start the process of renominating all of the members of the board. So, that's what this does is that by January 1 each member of the board would go through the

renomination process. It's not to fire all of them, it's just to allow this process to take place for the business community, and the Governor could have the impact on the board structure, so that there's a review of the current board governance within this calendar year, and that's what I'm suggesting.

Rep. Keiser: I will withdraw my motion.

Sen. Klein: I will withdraw my second.

Sen. Hacker: Was the intent when you bring those amendments forward at the next meeting that the current board makeup would have the ability to reapply? I'm just wondering how that would work out with their term structure, that they have certain terms and amount of time that they have spent there.

Sen. Potter: The terms would basically all start again on January 1 with staged terms.

Rep. Keiser: This says when we first started the boards. There would be one version applying for like 2 years, one for 3, one for 4.

Sen. Potter: The only problem that a current board member might have is if as we changed the premium structure, they no longer qualify for that.

Rep. Johnson: Our amendments that we adopted under 0211 did allow for putting in kind of initial appointment, so if they reapply we still would consider them under initial appointments in the dollar amount.

Sen. Klein: Each one of the board members could reapply for any of these particular processions, and then the Governor would be the one saying you're in and you're out.

Sen. Potter: That's exactly right.

Conference committee adjourned.

Chair Johnson reopened the conference committee hearing on HB 1460.

See proposed amendment 70708.0215.

Sen. Hacker: I don't call this a friendly amendment by Rep. Keiser on the study section in the bill. What I had requested from council is that they draft a study that just looks at the governance of the board, and kind of how it works. Rep. Keiser thought we should be a little more focused on that initiative, and look at specifically what we did this session, and the changes in its governance. So, we will look at the governance as well, the way I understand it. So, I guess I don't have a whole lot of heartburn if I was to look back at the amendment that I had submitted. I would have not deleted all three of them. There are three subject matters that would have studied the method of governance, and then two relationship studies in there. One of them the relationship with WSI with the executive branch, and the other would have been WSI with its director.

Rep. Keiser: I would move amendment .0215.

Sen. Hacker: Second.

Roll call vote was taken, amendment adopted.

Sen. Potter: I would move amendment .0217.

Rep. Boe: Second.

Sen. Potter: This amendment intends to take the bill in its current status, without the study that we just passed, and has all of the board members who are appointed by the Governor under this. Their terms will expire in December 31 of this year. It's in section 3 that you find the implicational transition before this. This would then allow the Governor to appoint the new board members effective January 1. He would make staggered appointments, each of which would end in an even numbered year. I misspoke myself earlier, the first terms would be just a 12 month term for some of the board members, and then it would be 36 month terms for others. It has the clincher there that no person could serve more than 8 years. I want to be clear about this. This is not firing the board members; this is having them reapply for their

positions. Having them renominated by the council of business leaders that we have, and by the Governor's process, so we just get the opportunity to review each member of the board, and determine whether or not they should continue on the board.

Sen. Klein: If someone was up January 1, 2008 and they had already served 2 terms, if they were reappointed then they would get to serve another 2 terms? Another 8 years, because we're beginning fresh from that point, or would they no longer be qualified to even have their name submitted? Would that mean that they served 8 years already, then would they serve another 8 years, which would be 16 years?

Sen. Potter: No, they would not. Before I seen it in writing, I wasn't sure when I gave you the answer. This is clear that no one can serve more than 8 consecutive years on this board. So, if they have served 6 years, they would be only eligible for the 1 year appointment, or 2 year appointment. If they have served 8 years, they will not be eligible to be reappointed.

Sen. Hacker: Was that the intent of the amendment, even though it was drafted that way, was that your intent?

Sen. Potter: Quite frankly, I didn't care. I was uncertain, the Legislative Council directed me in this fashion, and I'm open to changes in that, if that seems to be troubling. Again, in the interest of not having people serve in groups, 8 years seemed like enough, and if they've served 8 years maybe its time to move along. They probably don't want to be on the board anymore.

Rep. Keiser: The new bill that gets adopted does limit the term to 8 years service. It's not a bad consequence necessarily, it's just a consequence. In terms of reappointing current board members, they would automatically get slotted into specific reappointment. They would have to be, for example in the first year of my second term, I'd serve 5 years. I would have to be slotted for the 3rd year for the new term, this is a 3 year term. 3, 2, or 1, it could be any of

those, but then when you take that up, the adjustment has to occur. It's not unmanageable, it's reality.

Sen. Potter: The language there is in the 3rd sentence of that application transition. The Governor makes the necessary adjustments, and the length of terms to establish the stagger in terms.

Sen. Klein: If we pass the bill even in its current form, the Governor then is going to be selecting from a new group as some of these terms run out. I think there are 2 or 3 on the board whose terms would be over with at the end of the year. We're already changing 3, why would we want to do this in this particular way?

Sen. Potter: I don't want to be too complimentary to the bill as it was passed in the Senate, and I didn't necessarily support it. It does make an appropriate adjustment in these ways of how we approach this. I think the idea of a board appointing itself is inappropriate. So, with the bill the way we've done it, this is making a positive step, but it's an incremental step in that it's going to take quite some time for the Governor's influence over the board, or even this group of business leaders to have their influence felt, because it's going to be over time. I think given the situation that we're in today, given the attention that WSI has had, when we go home, we don't do anything for 2 more years. This is the only opportunity to really do something, and maybe it would do nothing, because the board would be reappointed, the Governor will reappoint them, maybe that'll happen. I just want to give those people who are still going to be working when we go home a week from now the opportunity to change things, if they so desire.

Rep. Keiser: It's an interesting concept, I'm trying to think and apply it, but in terms of applying it with the changes that we have made, we tend to get hung up in the fact that people have served 8 or 12 years, but they've really served 4 years. They serve a term, and they get

reappointed, and it has been the board reappointing. Current with the law as it is in the form it's in right now, as Sen. Klein indicated 3 people turn over this year, and 2 or 3 the next year. So, within 2 years before we do come back, over 50% of the board, approximately are going to have the opportunity to be reappointed by the Governor already. Within 3 years it's certainly a majority of the board, within 4 years it's 100% of the board that have gone through the new process, because they will have come up either for initial appointment, or reappointment by that time, and the Governor will be involved at that point. So, it seems to me that what we did was sound and reasonable, and I am concerned with the learning curve for this board. There's a tremendous learning curve, and I think what we've done so far accommodates pretty much what you're trying to do with this; other than this would be in 1 year. In January, we would expedite the process a little bit more than what it is, and you run a risk. Is that good

management, probably, and probably not if you put in too many new people. I do remember when the board first started, and we first started, and everybody was new, the board really struggled. It had to go through a lot of training to get up to speed to serve functionally and well on the board. So, I think this approach will be a wholesale beginning in January versus a gradual transition, which to me makes a lot of sense given the nature of the board, and the significance of their work, and the difficulty of the issues. So, I guess I would not support it.

Sen. Potter: May we suggest that the Governor will have those things in mind. I'm not the Governor, won't be the Governor, but if I were the Governor, I'd approach this in a staged fashion in exactly the way that you've laid it out that 3 members would come up for reappointment. It'll take 3 years to get at the majority of the board in this, and we may find that we want to reappoint. The Governor may want to reappoint. The business committee may want to reappoint 2 of the 3 members in this first year. It can go the same way the second year, and so by opening it up the entire board, he's able to say alright we need to keep the

institutional memory in there, we need to make sure that we've got this staggered, so that there's always somebody that's experienced here, but he's not hamstrung by the fact that I can't do anything about those 8 members, those 5 members as we go through this process. So, I really think it gives more ability to take a fresh look at the board, but not to do a wholesale slather of it. It's not going to be a massacre of the board members, it's going to be that we're going to reappoint, and it may be the business community itself whose deciding that member needs to go who otherwise would be here for another 4 years. So, that's what I suggest. It's to give the opportunity for that kind of flexibility to somebody, because we're going home, and we are the only check over WSI, and we're not going to be here in another week. Just before I came down, Jennifer Clark emailed me, and she suggested something about the Governor's protocol for appointing board members for the terms beginning January 1, 2008, and the board member qualifications for the appointments must comply with the section 1 of this act. She thought that language should be there, it's precisely the same amendment, but that single sentence change to it.

Sen. Klein: The entire board, this is not the medical, so each and every one of the membership would be faced with this coming the first of the year?

Sen. Potter: He could even reject the candidates from organized labor, yes exactly.

Sen. Hacker: As I go through the list of the current board membership, I think I'm right with the assumption with how our grandfather clause works to current amendments, that it only applies to new members almost any of the changes. When you go through the list, and you look at the time periods, our new policies for 2008 would affect 1 member coming off, and that's an employee representative member. It would not affect any other appointments. The next wouldn't be until 2010 when it would affect the current chair of WSI, the board, because that's the end of his 3rd term, which ends in December of 2010. I haven't looked further than

that, but it's more like 2012 when it would affect a 3rd, and then thereafter. So, I understand the complications of those amendments, and how the Governor will have to straighten this out with those sort of things, but was granted the value of changing those in a little more expedient process than we're looking at is most likely greater than 6 years before we affect the 3rd and 4th out of 11. So, we're implementing all of these changes, and I'm not sure how I go home and say yes, we changed WSI's board, but not until 2012 or 2013. So, that's where we sit as of right now, I would have to support those amendments. It's so far out that any of the changes that you make, because of how that grandfather clause is written, will affect anybody.

Sen. Klein: Most of the members in there, have they served must less than 8 years? Under the amendments that Sen. Potter's proposing, I'm wondering if some of these folks have served 7 years, and at the end of the year they'd have 7 years in, so their reappointment would only be for 1 year, correct. How many would that effect?

See handout A.

Sen. Hacker: Chairman Indvik would end his last term in 2010, and under the new amendments, it would end in 2008. Mr. Ballweber, employee representative would have 7 years of eligibility left, because he has only served 1 year.

Rep. Keiser: That's not automatic. They have to reappoint in 4 years. So, if he starts in 2007, 2008, 2009, 2010, and he comes up for reappointment, that's now the Governor reappointing, is it not?

Sen. Hacker: The way I understand the grandfather is that they would relate back.

Rep. Keiser: They could serve 3 terms, but they still would have to be reappointed. It's not automatic for any of these people. So, instead of putting the 8 year limit on them, because they came in under the 12 year limit, they would have the option of being 12 years. That's not their option that would be the Governor's option, and the labor's option. So, he's up. He

doesn't get to serve 12 years just because he got on the board. That's the maximum he could serve, just like our current bill says the maximum is 8, but every 4 years you have to be reappointed. It was my understanding our bill would require the reappointment, and that the Governor would be involved in that, but maybe I misunderstood that. There's a difference between how many terms we can serve, and the reappointment of succeeding terms. So, looking at that, Mr. Ballweber, if his term ends in 2010, that's when it comes up.

Sen. Potter: How long was Mark Gjovig's term? Is it a 4 year term?

Rep. Keiser: 2003 to 2008, a 4 year term.

Sen. Potter: That would be a 6 year term.

Rep. Keiser: He may have filled an unexpired term. It's my understanding that you got a 4 year term, and then you can serve subsequently, but you have to be reappointed, and the board was reappointing, now we have to go back to nominations, and the Governor. So, I think there is a much more rapid turnover here. By the time you get back, you will have pretty much turned over the board under the new program.

Sen. Hacker: I may have misunderstood that a little bit.

Rep. Johnson: It did say that they could be reappointed for a term if they were prior to August 1 of this year, but the reappointment would have to go through the Governor's office. They would have to get reappointed for that 3rd term.

Rep. Keiser: This is an important question, because that was my understanding. That's why I liked the system as it was.

Sen. Potter: As I see the clear practical affect of my amendment, it is that the chairman would not be eligible for reappointment, and he'd be gone at the end of the year, that Evan Mandigo would be gone at the end of the year, and Denny Schneider as well, because he would have served 8 years.

Sen. Hacker: You'd suspect everybody to reappointment in January, correct?

Sen. Potter: Yes. I'm saying at the end of December 2007 when the reappointments were made, these 3 would be ineligible, because they would have expired their 8 year term, and I'm OK with that.

Sen. Hacker: Is that a ramification to counting it when this occurs? It's so unstructured how the amendment, which basically says wipe out the board, and if you want to reappoint people you can, but also figure out your own mechanism for when you reappoint them. How do you know which ones would stay?

Sen. Potter: That's the Governor's protocol. In a practical sense, I'd say the Chamber, and the various business organizations would all have to take a look at this, and start making their appointments probably in the effective day of this act.

Sen. Hacker: Who's going to want to serve on this board, at the appointment of this board considering occurrences of 2 days ago?

Sen. Potter: People that want to help ND are the ones who are going to want to serve on it. The ones that want to be a part of this process, and are unafraid of what has happened before, and want to make it a shining agency.

Sen. Hacker: Initially, I really kind of liked this, but as I keep looking at the amendments, and understanding the environment that we're going to operate in for the next 6 months to a year, the indictments, I believe that any real changes should probably take affect after this judicial process occurs. As I spoke of in an earlier meeting, specifically about study, I believe we study this, and not make these types of decisions where we're going to walk in and say everybody's out.

Sen. Potter: Not everybody's off the board, they just have to reapply. I would expect any reasonable person is going to reappoint enough people from the board, so that the consistency

and the institutional memory is kept. You made the case earlier when you said we're going to go home, and what did we do if these changes don't take place for years if the board makeup cannot be overturned for years. I think it's appropriate to take a strong look at the board today, and say OK let's review them. We've reviewed the actions of the agency, we've reviewed the audits, the directors, the staff, and this gives an opportunity for that review to take place within the next calendar year.

Sen. Hacker: When I was referencing that, I was misunderstanding information to believe that some of these folks wouldn't be up until 2011, 2012. We're talking 2008, that case will probably be wrapped up, and then you'll have a new board come on.

Sen. Klein: I certainly was more in favor of Sen. Potter's amendments until I got to see exactly how this would shake out, because in looking at the list, and having 6 reappointments as of December, and only 5 others is what I count would be up in 2010, it would seem to me then that we're getting to where we need to be, and still provide that institutional memory which is really important in this. I didn't realize there would be this many, and before we take action could we recess for a bit to digest how this would work out here.

Rep. Keiser: One of the unintended consequences here that we haven't talked about in this is a 2 sided street. I don't know how you all are, but if the legislature were to come along and say we're going to terminate all of you, I don't care who would nominate me, I wouldn't come back. I think the institutional memory is a really important feature here, and I think you'll be very careful what you do, and I think that's a risk factor that's also included in this amendment. Conference committee recessed.

Chair Johnson reopened the discussion on HB 1460. At this point we have an open motion on the floor, and that's to adopt amendment .0217.

Roll call vote was taken, motion fails.

Sen. Hacker: I do have an additional set of amendments besides the study. What it does is on page 4 line 16 after the period the Governor may remove any member of the board for good cause. I started to look at the fact that there really isn't a mechanism for removal of members from the Workforce Safety & Insurance board, and for good cause means that something is wrong, and something has happened. So, because there is a mechanism to remove the executive director, which is the board, I thought there should be a mechanism if you find a board member is being unethical that they have a vehicle to remove them. Good cause is actually listed in 6 different sections of code right now, and they all deal with boards, but it ususallyr refers to inadequate level of experience, competence, or ethical standards. That's essentially it, so I move amendment .0213.

See proposed amendment 70708.0213.

Sen. Klein: Second.

Sen. Potter: I believe that the definitions of good cause that the Senator outlined are exactly right, and that's what's lacking in this amendment is that it requires to high of standard for the Governor to remove a board member. I really believe that the Governors should be able to remove a board member soon, I was hoping for December 31, 2007, but August 1, 2007 would be fine to. Without casting exertions at the integrity of the person or any hint that there could be illegalities in it, just poor management. As you define good cause it doesn't include poor management, or lack of supervision, or lack of attention. It is a higher standard then that.

Sen. Hacker: Maybe to rebut that fact a little bit, in this section it refers to good cause as an inadequate level of competence, and so I believe you have more ability then beyond breaking the law before somebody can be removed. There are obviously already procedures to remove individuals from boards that serve the public if you break the law, etc., but this really deals with ethical standards and things along those lines, competence and level experience.

Sen. Potter: Inadequate level of competence, I have a difficult time determining the competence of the current board chair, but I can suggest from my point of view that he has paid insufficient attention to supervision. It's not the same thing, but I understand the motive here of what you're trying to get at, but I would think that this would stand if you just remove for a good cause, and you trust that the Governor is not going to just start replacing board members, but not under the legal terminology that has been established before, just his own judgment as to what's necessary. I'd be delighted with this amendment if we remove those words for a good cause, and you just say the Governor may remove a board member.

Rep. Keiser: To me this again politicizes it, but that's my own bias. If I can find good cause in my mind, and I think Sen. Potter could find good cause with the chairman in his mind. We very intentionally created the board to operate, and we may disagree on the qualities of the chairman, but this is moving us back into the position we were at when we took it, and created the board where the Governor was appointing commissioners, and the commissioners were entirely political in nature. Now, it doesn't make it necessarily political, but it moves us one step closer to making it a political appointment board. I want this to represent the industry that it does represent, and so I wouldn't support this.

Sen. Hacker: If I look at what we've done in this, I would have to disagree with Rep. Keiser. I think the ability that we granted the Governor to deny gives him more political cause than it does when we're looking at whether or not somebody is acting ethical, whether they're competent within a good moral character, and I think this is something that really strengthens the board, because what you're talking about are folks that represent industry, and I believe industry wants those types of people. I believe that employees want those types of people representing them on the board, because they do. So, I think it's more of a protection issue than it is about politicizing this. Politicizing is what we've done with allowing the Governor to

deny lists of any of them. You can get any different political party individual that is more concerned with whether or not somebody's political preference and they'll sit there and deny risks until they send in the right person.

Rep. Keiser: I couldn't agree more. What we did was begin to politicize it, and now this is just another step in politicizing. I couldn't agree more with you. You are absolutely right you did politicize it with the first one, and this one.

Rep. Johnson: At this point I think the board can remove members.

Rep. Keiser: They can, and they do.

Roll call vote was taken, motion fails.

Sen. Klein: I move a do pass, as amended.

Rep. Keiser: Second.

Roll call vote was taken, 6 Yeas, 0 Nays, 0 Absent.

Conference committee closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

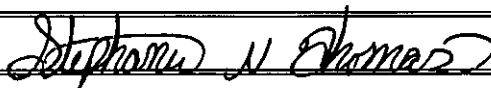
House Industry, Business and Labor Committee

☒ Check here for Conference Committee

Hearing Date: April 24, 2007

Recorder Job Number: 6304, 6311

Committee Clerk Signature



Minutes:

Chair Johnson opened the conference committee on HB 1460.

Sen. Klein: The committee was defeated yesterday afternoon.

Sen. Hacker: The way I understood the speech on the floor, Sen. Nething made some comments about the ability to remove people if they're breaking the law from the board, and I'm not sure if he was talking about the executive director. So, we revisited both the opinion that Attorney General Stenehjem gave recently to the Governor about section 4411, and the ability to remove individuals. That's the section that includes the ability to remove the sheriff, school board member, and there's actually quite a laundry list of people, and it differs a little bit from what we had discussed previously, in that the process for removal is quite a bit different. All we had brought forward was the mere fact of good cause, and really what that section applies to is good cause where there's a hearing, and once when you have a hearing some of that burden, let's say the Governor was to remove somebody, a state official, etc., we don't call it good cause. I drafted amendments to just slide these people into that section. After reading this chapter, you have to have been found guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or habitual drunkenness or gross incompetency. It's pretty strong language in there, and there's got to be a hearing, but once there's a hearing and a decision is

made, let's say the Governor removes any of these folks, could be a superintendent of schools, city commissioner, or even a mayor, once he's removed those they do have the ability to appeal that in court. At that point in time you really get down the path of has burden shifted upon the Governor to prove how he found that person guilty, or his grounds for removal? So, really this isn't the witch hunt, and I think that's what we have to keep in mind that this is just another alternative to bring forward.

See proposed amendment 70708.0220.

When we look at this section, you can obviously see there's quite a list of folks, and really any custodian of public monies, and that's where the Attorney General had referred a previous opinion back in 1933 when there used to be WSI commissioners that were not custodians of public dollars, and that is where I believe the basis of his opinion was to the Governor. We did things differently about 10 years ago when we removed that from really an executive function when we kind of hung it out this independent thing, and I don't know if the intent was to not allow for this type of removal or what, and so this would just allow that ability.

Rep. Keiser: This would apply just to the board, and not the executive director?

Sen. Hacker: Just to the board. There's kind of a flow of power there that the board has over the executive director. They hire and fire that person, and so I don't see why we'd put that same power over the executive director, because now you have a board, and the executive director, and that's the responsibility of the board.

Rep. Keiser: Like superintendent of schools, who hires them?

Sen. Hacker: The school board would, obviously.

Rep. Keiser: So, should we include them?

Sen. Hacker: I'm not sure; superintendent of schools is actually an old term.

Rep. Boe: Superintendent of schools, I think refers to the superintendent of schools which are elected in the counties.

Sen. Potter: In Bismarck, it's hired by the board, but the board is in here, and school board members are just ahead of them, the underscored.

Rep. Johnson: At one time there were superintendent of schools that were elected officials, and that has been changed. I think if I look at this correctly, all of these individuals are elected officials that we're giving the Governor the power to remove. Unless I'm mistaken, no police officers would be hired people, they wouldn't be elected officials.

Sen. Potter: I do think if we're going to do this that the director probably ought to be in there, as well just because in a situation where the director has been guilty of something, but the board doesn't take action. Well, do you really want to remove every board member because of that, or can you find grounds for removing the board members? Can you call in neglect of duty in office? That's probably the closest you can get that you have to hang your head on, and remove a majority of the board to get rid of the director. It would be easier if the director was just in there. The legislature created this kind of hybrid agency. It's no longer an executive branch agency. It's really a legislative private partnership where we excluded the executive from it. When we go home, then it's just a private agency, and yet it's a state agency as we asked the director when he testified in front of our committee. It's a state agency, and yet who in state government has any authority over it. This is a very incremental change, but if we were establishing it today, wouldn't we have some means of addressing in the interim, in the 2 years that we're not here? If something goes on, wouldn't we have some means of addressing that, and this at least gives somebody in state government authority to take charge.

Rep. Keiser: Does the board currently have the authority to do these things?

Sen. Hacker: Legislatively, no, not in Century Code.

Rep. Keiser: Did we not in the Century Code say the board has the authority to hire, to terminate?

Sen. Hacker: They hire the executive director, but not board members. Board members are there for good, unless they have internal policy that I have not read to remove all their own numbers, which I don't see how they could even grant their own policies, because we explicitly say in legislation this is how we make up the board and nothing that says how you dismember or remove somebody. Obviously, the amendment is pretty narrow in the scope.

Rep. Keiser: I think we maybe should do a little more research on that, because I think the court has the authority to remove board members. I'm fairly certain of that. They have the authority not only to remove the director, but they also have the authority to remove board members for cause. Are you absolutely certain?

Sen. Hacker: No, I'm not absolutely certain. In talking with the council they said there's no explicit authority in Century Code that allows for any removal of any board member in any fashion. That's what they had stated to me, maybe we could do further research. I'd be more than happy to do that.

Sen. Potter: Could you explain the relevance of that? What's the point that you're going to get to?

Rep. Keiser: I think the real point is that we intentionally created the board to be the governance entity of WSI, and I think when we created the board, we created the clear direction that they would hire and fire their powers, and their powers also include terminating the executive director, staff members, or board members for cause. I think that's fairly clear in the guidelines, and kind of the bylaws of the board. So, we put that power into effect. The next question is are they operating appropriately, or inappropriately as a board? The executive director was indicted. We recognize that as we said in our previous meeting, it's a very serious

charge, however, did they take a correct action, and I think that's for each of us to decide.

Personally, I think they operated exactly the way they should have. They took immediate action the same day the indictments came down, and if you wanted him terminated that day, that didn't happen. If that's the goal, that did not happen, but I think they behaved exactly as they should have.

Sen. Hacker: This amendment has nothing to do with recent indictments. This amendment has to do with we've had a work in progress on a bill for the last 31/2 months. Small changes have been made at many different stages of the process, and this is just another change. I totally agree that we're going to have to let the judicial process run its course. That's the fair, and balanced way to do it. The man ought to have his day in court, and I don't disagree. I think the action was appropriate, but what we're referencing with the amendment is the ability to remove current members, a function of the board, and how the board is created. We've made little changes throughout this whole entire session, and this is simply another change to say OK, we've went down the avenue of how is a board makeup created, and how do they get their, and this is pretty narrow. I mean guilty of misconduct, should that person be on the board at that stage? Is there removal process, and if I'm wrong, and it's in Century Code that there's then probably no need for the amendment. I think I posed that question to Legislative Council, and they said no.

Rep. Keiser: I will agree 100% that we have not intentionally built the power to the Governor to remove any of those. I agree with that, but we do have the power of the board to do it.

Sen. Potter: I disagree with Sen. Hacker about whether or not this would be needed if the board has the authority. That's the point, and it's not in regard to recent happenings. What we're talking about is long term public policy. Yes, the legislature created this agency, and told it to go and be very independent, suggesting that's not entirely appropriate. Someone in state

government has to have control over a state agency, and it is not adequate to have the legislature have review every 2 years. There has to be somebody who can step in during the interim, and take care of things. The board being able to replace board members doesn't get at the problem of the board not acting properly. It's again the self perpetuating little club, and so in the legislature we keep throwing powers at the Legislative Council creating as many legislatures and it drives me crazy, but that at least has a possibility, or an executive has a possibility. It seems to me that since the Governor has these authorities over all these other ones, it makes sense to have him have authority over this as well. It's the appropriate place to let him. He's not going to misuse his authority, he's not going to do it willy nilly, he's not going to do it on a whim, and he's going to do it when there's neglect of duty in office. It's not about the current situation, it's about what is the appropriate kind of public policy for an agency and I know some want workers comp to not be a state agency, but it is. It was created by the state of ND. The workers gave up their right to sue their employers. The employers are taxed to pay for it. It is certainly a state agency, and somebody in state government has to have ultimate authority over that board.

Conference committee adjourned.

Rep. Johnson opened the conference committee on HB 1460.

Sen. Hacker: For the committee's sake, I did go down to the Attorney General's office, and I got an email from him. It's not an official opinion, but John Fox went through the code. His email states at your request I reviewed the WSI statutes, particularly Century Code chapter 65 to see if the WSI board has any explicit authority to remove a board member, and found no such authority. While the Century Code does give the board the authority to adopt internal management rules creating procedural bylaws for certain purposes including replacement of departing members, there's no explicit authority to actually remove a member under chapter

65. The Governor is authorized to appoint replacements for departing members. According to the Attorney General's office, there is no explicit authority for any sort of removal process, and it also does not grant that power for WSI to adopt those policies.

Rep. Johnson: What I did was I requested from WSI what their abilities were upon a board member. I guess the one basically is a voluntary resignation, 3 executive quarterly meetings they have voluntarily resigned. They do have under their Carver governance process it has a Code of Conduct for them to abide by, but it really doesn't have anything with ousting them if they don't follow it, and I don't know what else they might have.

Sen. Hacker: When we met this morning it was the fact that there was no policy for removal of the board member, so we did a little further homework as requested, and that's kind of what we found, so I would go back to the amendment that I proposed. It aligns the Governor to be the one at this point to remove somebody for misconduct, malfeasance, etc.

Sen. Potter: I'd like to know whether or not you considered having the executive director fall under this statute as well, and how you feel about doing it.

Sen. Hacker: Obviously, when you look at this type of amendment it obviously comes to your mind, but just look at the flow of power as you have a board that hires and fires this executive director. I thought to keep the board in this agency somewhat independent that should stay. That executive director should serve at the pleasure of the board, and not necessarily in my eyes at the pleasure of the Governor. I move proposed amendment .0220.

Sen. Klein: Second.

Rep. Keiser: I'm going to oppose the amendment for the same reason we talked about previously in our last conference committee that it is a politicization of the board. We have agreed, much against my better judgment, to allow the Governor to have the authority, and veto power for potential members on the board. This would then give the Governor the

authority to remove, and in part puts the Governor in play as being responsible of the board, so that's my objection. I have prepared an amendment that I'm not offering at this time, but if the issue is the board doesn't have statutory authority, this amendment gives the board statutory authority to remove its members. I think although it may not have been directly stated statutorily, I think legislative intent might now prove they have the authority, but regardless I would oppose the amendment because of that.

Roll call vote was taken, motion failed.

Rep. Keiser: For discussion purposes, I would move amendment .0223. It's basically the amendment that was adopted previously by the conference committee, but on page 2 there's a subsection 3 where the board may revoke the appointment of a board member for a good cause after giving the member a written statement of the reason for removal, and after that member has had an opportunity for a hearing. So, that would give statutory authority to the board to remove members, and I would move the amendment.

Sen. Klein: Second.

Sen. Potter: The word hearing, does it have a specific meaning? How do we see this? Is this something the board would do itself, or some kind of administrative hearing?

Rep. Keiser: Jennifer Clark said that is sort of the requirement for having removal, so I'm assuming it follows whatever other statutory requirements we have for the option for a hearing. I cannot honestly answer; she recommended that it have that language.

Sen. Klein: I guess the issue that I might see is I'm certainly thinking that the boards are certainly above board, but when you have 6 employers, and 3 employees, let's say the employer group be unhappy with one of the employee members, they can certainly write a statement of reason for removal, talk about it, and then have them gone. Maybe I'm just looking at it in the wrong light, but I guess in looking we did have some other boards looked

into to see if their boards do remove their own members, and none do. First they have to have the Governor involved in the 2 that we have found, so there's certainly not a whole long list of boards that are able to govern their own, and be able to remove their own, and I guess after thinking about it, I can see where the cannibals could be alive in any group.

Sen. Hacker: After I started to think about the direction that this may go, although I appreciate some vehicle to remove a board member, and I'm not as concerned as Sen. Klein about the employers ganging up on some other member, because it would dominate the board. I guess maybe the picture that I foresee that's more likely in my mind to happen, because I don't think the employers would act that way, I almost could foresee a situation where you may have a couple of employers who are maybe fighting for the premium side of the decision, and the rest of them ganging up on them. Would that be unethical? Is that good cause to remove somebody, because they were putting dollars before whether or not somebody should receive benefits? Not that they make specific decisions like that as a board, but I'm just kind of wondering is that a possibility that some of the other members might say that's unethical to hold down premiums at the cost of somebody having their light fixed. It's not going to be that specific, but some issue like that could come up.

Sen. Potter: I thought this had some merit, and it's a good thought, but the appointment by the Governor, which we have passed here, the board could resist those appointments. They could accept the yes you're a new member, and now here's your reason to leave, and so from that perspective as well, this might be just an unnecessary step.

Roll call vote was taken, motion failed.

Sen. Klein: Maybe we'll try to run this up the pole again on the Senate side, and see where we can go.

Sen. Hacker: We're getting very close to the end of session, and we probably need to do something fairly soon if we're going to make any additional changes. Understanding that you're removing somebody for cause, etc., is there a different office holder that this would fit better under, so we don't feel like we're spreading too much power to one individual?

Rep. Keiser: I don't support it for the very reasons you all mentioned. The difference between the pressures being brought up by on board members relative to board members, it's the very pressure elected people have to worry about votes, and they tend to sometimes make decisions based on votes, and particular people, and the influence they can have financially, or in terms of votes. From my perspective, there's a much larger risk on the part of elected people, and that's the problems we got into, in part when this was under the Governor. So, I don't support it. I might say that we also have to run it back up the pole if we go forward. This is an amendment to take out the first part, which was that the Governor has veto power, and I'll be honest with you, I had a tough sell in our caucus to get that. There were many that want us to reconsider that given that we came back to conference committee, and take that up. That's the other direction that many members in our caucus are supportive of.

Senate will reconsider their actions on the conference committee report.

Conference committee closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1460

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: April 25, 2007

Recorder Job Number: 6329

Committee Clerk Signature



Minutes:

Chair Johnson opened the conference committee on HB 1460.

Sen. Klein: Our thought was to expedite the whole process. We were going to just reconsider it, and as you probably observed it was blocked today, and obviously we just need to have more TV time, so here we are again.

Rep. Johnson: Rep. Keiser and I did go up and visit with Dave in Legislative Council on procedure, and what needs to happen, and he said there has to be some change, because you did not except the conference committee report, we can't just run the same one up again. There needs to be some kind of change on it, or else you can kill the whole thing. So, we talked about a possibility of an amendment, and I did have an amendment drafted.

See proposed amendment 70708.0224.

It's a minor change. The only difference is on the 2nd page of the amendments on page 5 after line 7 insert (e), the changes just have the words within the 30 days following receipt of a list of potential candidates the Governor has to make a decision, or reject the list. So, it gives kind of a timeframe for the Governor to act on the list that's presented to him, and that is the only change that is in the amendments.

Rep. Keiser: I would move the adoption of .0244.

Sen. Klein: Second.

Sen. Potter: I'd like to ask a question of somebody in the audience.

Rep. Johnson: Sure, go ahead.

Sen. Potter: The amendment that has just been offered here says the Governor may reject the list within 30 days. When we talked earlier about the other employee members, you guys don't recommend that, is that correct?

David Kemnitz, AFLCIO: The Governor selects them on his or her own.

Sen. Potter: What's your opinion of this bill as it stands right now?

David: Up until 7 minutes to 1:00 this afternoon, we weren't lobbying on anything. We thought because of our testimony on HB 1460 throughout on the House IB&L and the Senate IB&L this was pretty clear that we think the board makeup wasn't correct as it was, and that the executive director ought to be appointed by the Governor. It all shifted to how the board makeup is, and who appoints, and how long, and those things. It's a different horse of sorts. So, other than our advice to all of the committee members, and whoever in the Senate and House talked to us about it up to this conference committee, we said that we felt item 4 was still our best bet. That's our conventions for it, and that your efforts, the Sen. Hacker amendments especially, if it was going to change at all, we're going to amend it. I think it was chapter 44 which was a procedure that would at least make an attempt for a real reform and the board of directors. We didn't lobby it from there. We thought the bill to us was on its way to the Governor's office, and didn't want to be involved in it any further. We didn't want to say yes, or no. At 7 minutes to 1:00 because of the 2/3 issue in the Senate, I was asked do you support this bill, or do you reject it. We do not support a yes vote, we haven't lobbied for a yes vote, and we will not support one, because of item 4 in the directives that are convinced and sent us here wet, and so that means we support a no vote. Well, it's either green or red as you

all get to do, and that's the only choices you have, and that's the choices that we have.

Talking with Senators, and others, that has been our position, Republican and Democrat Senators. I said this is where I must stand on item 4, and HB 1460 doesn't meet the level of change enough so that I can go to our convention and say we switched for that premise in concept, and that's where it stopped.

Sen. Potter: You're organized labors representative; under this act the Governor could reject the nominee. Are you willing to accept that in exchange for the Governor having the ability to reject the business nominees as well?

David: Aren't all nominees rejected if the Governor so wishes?

Sen. Potter: If we pass this then they could reject it.

David: That question was asked earlier today, and we hadn't addressed it, because we weren't going to lobby this bill. Whatever you decided was reform. If we didn't like reform we could make that decision in our bodies and either raise you, or attack it in election, or in the public. As I thought about it at 7 minutes to 1:00, I wrote down the issue of the Governor being able to reject the 3 names, that in some instances that might be thought of as a fair way. When you look at the organizations the ND AFLCIO organized labor, it's hard to find the 3 that you want, because you're only going to get 1 out of those 3, so pick your top best. They have to speak your voice, understand your issues, and present themselves in the fashion you want on that board, because that's the only one we get. So, if those 3 are rejected for whatever reason, they have to find 3 different ones, and it's an infinite group, so that does create problems for whatever reason the Governor may want to reject them. It's not any different with the business community really, so the hole in that is that could happen. It may not happen, it may never happen, but if it does, it leaves any organization with only one voice, and one shot

in a weakened position, as far as being able to do that. So, that was our argument at 4 minutes to 1:00.

Sen. Hacker: You're going to give us an option on that piece of the bill that you don't like that piece, but you will not give an option on the rest of the bill; because it doesn't meet little number 4 on your sheet, because your group voted on that sheet, and because number 4 of the bill doesn't quite meet the qualifications of number 4 on the legislative initiatives that was set out, but you're allowed to give an opinion on what goes in or out of the bill, but you don't like the bill. I'm confused on what it is as your role, because you're using guidelines set out by your group, because it's on point 4 of whether or not you're going to say yes, or no, but you're also going to dictate what's in the bill, etc., and say yes or no on that. What's the driving factor of whether or not you're going to support the bill or not?

David: It's a fair question. We can't dictate anything to you, and I wouldn't try, and I will not stand for the record that indicates that. We suggest, we recommend, we stand on our soapboxes, and we ask you to consider our position, and our reasoning. It is never something I could do, or would do.

Sen. Hacker: You will only take a position on that piece of the bill, but you won't take a position on the bill itself.

David: That would be correct. If I'm allowed to reiterate at what happened this afternoon at 7 minutes to 1:00, I was advised that given the 2/3 vote it wasn't the majority anymore, and that there were enough votes to stop that.

Sen. Klein: At 7 minutes to, the whole issue was whether or not we were going to have to come down here, look at each other, and decide that we can't do anything. It wasn't anything about what the bill contained. If you were lobbying it, you should have been lobbying for the bill a day or 2 ago, or to kill the bill. The whole issue with the 2/3 was about not having to go

through this process, probably coming back later again today, going through the bookwork, running it through the House, running it back to the Senate. It had nothing to do with the bill, and that's kind of why I was upset that you were running around with number 4 around the floor telling people that we don't like this anymore at 7 minutes to 1:00.

David: I was not running around the floor buttonholing Senators. I answered questions when Senators came to me about our position on this bill, and I said because HB 1460 doesn't reach the level of number 4, and if he misses I could not support a yes vote from the AFLCIO standpoint. That's what I was asked.

Rep. Keiser: We're at the point of where I think the conference committee has gone above and beyond in allowing even a question to the audience. I think we have the answer, we appreciate the answer, and I think we should go back to the committee discussion of what are the levels.

Sen. Klein: The 30 days, certainly the idea there is you should move it forward, don't let somebody hang out there, and it's going to make that person know within that timeframe.

Rep. Johnson: That was my intent, and also because there is a timeframe when the appointments have to begin, which is January 1 of the year. If there needs to be a new risk, there needs to be some movement made, and we had never addressed the timeframe prior, and that's why I asked for that amendment.

Rep. Keiser: I greatly support that, because when we got thinking about it, if the Governor does reject a list of names, which this bill gives him or her the authority to do, it starts the process again. We have to go back either to labor or to medical association and they have to contact people and say are you willing to serve, and that's the process that they don't do quickly either. So, we just thought it would be appropriate.

Sen. Hacker: Because we are not laying out the fact of what the board can and can't do without members being appointed to it, essentially what we're saying is because we didn't do anything specific, the board could have operated in, for instance December of 2008 for a certain amount of time without putting any new numbers on there. That's what we're looking at. We're looking at a board of 5 dictating what the boards going to do, because you'll have a majority there of board members, because he or she has 6 members in limbo that there may have been submitted lists, and wants to sit as long as you want, and I could see justification for 30 days.

Roll call vote was taken, amendment adopted.

Conference committee adjourned.

PROPOSED AMENDMENTS TO FIRST ENGROSSED HOUSE BILL NO. 1460 WITH
SENATE AMENDMENTS

Page 3, line 24, remove "Notwithstanding any other law enacted by the sixtieth"

Page 3, remove line 25

Page 3, line 26, remove "amendment, or other provision of law." and replace the first "the" with "The"

Page 3, line 27, and replace "public officials other than the" with "members of the legislative assembly"

Page 3, line 28, replace "director and members of the board" with "without the consent of the chair of the legislative council." and replace "or for providing awards, other than service awards or other" with "In addition, unless allowed under law applicable to executive branch agencies, including authorization provided under Title 65 of the North Dakota Century Code, the organization may not expend funds for the purpose of providing employee"

Page 3, line 29, remove "allowed under law and applicable to executive branch agencies"

Page 4, line 2, replace "term" with "terms"

Page 4, line 5, replace "term" with "terms"

Renumber accordingly

The organization may not expend funds for the purpose of providing workers' compensation education or training for members of the legislative assembly without the approval of the chair of the legislative council. In addition, unless allowed under law applicable to executive branch agencies, including authorization provided under Title 65 of the North Dakota Century Code, the organization may not expend funds for the purpose of providing employee awards or incentives.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "three" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests,"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 2, overstrike "nonorganized labor"

Page 4, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. The governor may reject a list of potential candidates representing employers, organized labor, or the North Dakota medical association and request that the submitting entity submit a new list of potential candidates."

Page 5, after line 9, insert:

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition."

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the

expiration of the member's appointed term, regardless of the member's wage-loss benefit history."

Page 5, remove lines 12 through 18

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1460 (, as (re)engrossed):

Date: 4-20-07

Your Conference Committee IBAL

For the Senate:

Roll Call

☒ Sen Klein
☒ Sen Hacker
☒ Sen Potter

Yes/No

Roll
Call

For the House:

Yes/No

☒ Rep. Johnson
☒ Rep. Keiser
☒ Rep. Boe

recommends that the (SENATE/HOUSE) (ACCEDE to) (~~RECEDE~~ from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____ and place _____ on the Seventh order.

☒ , adopt (further) amendments as follows, and place 1460 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Adopt 70108.0211</u>	

MOTION MADE BY: Rep. Keiser

SECONDED BY: Sen Klein

VOTE COUNT: 5 YES 1 NO 0 ABSENT

Amendment adopted

April 20, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 2, after "membership" insert "; to provide for a legislative council study"

Page 5, after line 14, insert:

"SECTION 4. WORKFORCE SAFETY AND INSURANCE - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2007-08 interim, the organizational structure of workforce safety and insurance, the method of governance within workforce safety and insurance, the interrelationship between workforce safety and insurance and the executive branch, and the interrelationship between the workforce safety and insurance board and director. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

1

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1460 (, as (re)engrossed):

Date: 4-20-07

Your Conference Committee FBAL

For the Senate:

For the House:

<i>For</i>	<i>Yes</i>	<i>No</i>	<i>For</i>	<i>Yes</i>	<i>No</i>
<input checked="" type="checkbox"/> Sen Klein	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Johnson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen Hacker	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Keiser	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen Potter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Boe	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

having been unable to agree, recommends that the committee be discharged and a
new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4-20-07

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Adopt .0215</u>	

MOTION MADE BY: Rep. Keiser

SECONDED BY: Sen Hacker

VOTE COUNT: 6 YES 0 NO 0 ABSENT

Amendment Adopted

April 20, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and spending authority; to amend and reenact section 65-02-03.1 of the North Dakota Century Code, relating to the workforce safety and insurance board membership; to provide for application and transition; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-03.1. Workforce safety and Insurance board of directors -
Appointment.**

1. The board consists of eleven members. The appointment and replacement of the members must ensure that:
 - a. Six board members represent employers in this state which maintain active accounts with the organization, ~~at least one of which must be a participant in the risk management program, at least two.~~ Two of which the employer members must be employers with annual premiums, which at the time of the member's initial appointment was at least greater than twenty-five thousand dollars, at least; one of which the employer members must be an employer with an annual premium of, which at the time of the member's initial appointment was at least ten thousand dollars but less than twenty-five thousand dollars, at least; one of which the employer members must be an employer with an annual premium of, which at the time of the member's initial appointment was less than ten thousand dollars; ; and at least one two of the employer members must be employer at large representative representatives. Except for the employer at large ~~representative representatives~~, each employer representative must be a principal owner, chief executive officer, or chief financial officer of the employer.
 - b. Three members represent employees; ~~at least one member must have received workforce safety and insurance benefits; and at least.~~ Of the three employee members, one member must represent organized labor and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment.
 - c. One member is a member of the North Dakota medical association.
 - d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.

2. Board members shall serve four-year terms, ~~except the initial term of office of the member at large to be appointed on August 1, 2003, expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006.~~ The governor shall make the necessary appointments to ensure the term of office of members begins on January first of each odd-numbered year. Board members may not serve more than ~~three~~ two consecutive full terms.
 - a. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the replacement member for ~~a departing an employer representative or medical association representative~~ from a list of three potential candidates submitted by the board. ~~The board shall interview an employer representative or a medical representative before placing that candidate's name on the list of replacement member candidates submitted to the governor~~ a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests.
 - b. The governor shall select the replacement member for the departing organized labor employee representative from a list of three ~~names of~~ potential candidates submitted by an organization that is statewide in scope and which through ~~its~~ the organization's affiliates embraces a cross section and a majority of organized labor in this state.
 - c. The governor shall select the replacement member for ~~a departing nonorganized labor~~ two employee representative. ~~The governor shall appoint the replacement member for representatives who do not represent organized labor and the member at large from a list of three candidates submitted by the board.~~
 - d. The governor shall select the member representing the North Dakota medical association from a list of three potential candidates submitted by the North Dakota medical association.
 - e. The governor may reject a list of potential candidates representing employers, organized labor, or the North Dakota medical association and request that the submitting entity submit a new list of potential candidates.
3. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in this ~~subsection~~ section.

SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and

applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition.

SECTION 3. APPLICATION AND TRANSITION. Section 1 of this Act applies to all workforce safety and insurance board members. The term of each board member expires on December 31, 2007, and the governor shall appoint the eleven board members for terms beginning on January 1, 2008. The governor's protocol for appointing board members for the terms beginning January 1, 2008, and the board member qualifications for these appointments must comply with section 1 of this Act. The governor shall make the necessary adjustments to lengths of terms to establish staggered terms that end December thirty-first of even-numbered years. In establishing an individual's eligibility to be appointed for the term beginning January 1, 2008, the governor shall consider the current premium rate of an employer representative and shall ensure that if a member is being reappointed, the reappointed member's new term will not result in the member serving more than eight consecutive years as a board member.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act becomes effective on January 1, 2008."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1460 (, as (re)engrossed):

Date: 4-20-07

Your Conference Committee FB&L

For the Senate:

For the House:

	Yes/No			Yes/No	
Sen Klein		X	Rep Johnson		X
Sen Hacker		X	Rep Keiser		X
Sen Potter	X		Rep Boe	X	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4-20-07

HOUSE CARRIER: _____ SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Adopt</u> Repeal -0217	

MOTION MADE BY: Sen Potter

SECONDED BY: Rep Boe

VOTE COUNT: 2 YES 4 NO 0 ABSENT

Motion Fails

April 19, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "three" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than" and after the period insert "The governor may remove any member of the board for good cause."

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests."

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 2, overstrike "nonorganized labor"

Page 5, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. The governor may reject a list of potential candidates representing employers, organized labor, or the North Dakota medical association and request that the submitting entity submit a new list of potential candidates."

Page 5, after line 9, insert:

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition.

Page 5, line 11, replace "Under section 1 of this Act, a board" with "Under section 1 of this Act the governor may remove a board member for good cause regardless of the date of appointment. The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the

employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history."

Page 5, remove lines 12 through 18

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1460 (, as (re)engrossed):

Date: 4-20-07

Your Conference Committee FBAL

For the Senate:

For the House:

	Yes/No		Yes/No
Sen Klein	X	Rep Johnson	X
Sen Hacker	X	Rep Keiser	X
Sen Potter	X	Rep Boe	X

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Adopt - 213</u>	

MOTION MADE BY: Sen Hacker

SECONDED BY: Sen Klein

VOTE COUNT: 4 YES 2 NO 0 ABSENT

Motion Fails

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1460 (, as (re)engrossed)

Date: 4-20-07

Your Conference Committee FBAL

For the Senate:

For the House:

	Yes/No		Yes/No
Sen Klein	<input checked="" type="checkbox"/>	Rep Johnson	<input checked="" type="checkbox"/>
Sen Hacker	<input checked="" type="checkbox"/>	Rep Keiser	<input checked="" type="checkbox"/>
Sen Potter	<input checked="" type="checkbox"/>	Rep Boe	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1465 -- 1466
(55) 1283-1284
and place _____ on the Seventh order.

☒ , adopt (further) amendments as follows, and place 1460 on the Seventh order.

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1460 was placed on the Seventh order of business on the calendar.

DATE: 4-20-07

HOUSE CARRIER: _____ SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen Klein
SECONDED BY: Rep Keiser
VOTE COUNT: 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1460, as engrossed: Your conference committee (Sens. Klein, Hacker, Potter and Reps. N. Johnson, Keiser, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1465-1466, adopt amendments as follows, and place HB 1460 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "to provide for a legislative council study; and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members."

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 1, remove "two"

Page 5, line 2, overstrike "nonorganized labor" and insert immediately thereafter "two"

Page 5, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. The governor may reject a list of potential candidates representing employers, organized labor, or the North Dakota medical association and request that the submitting entity submit a new list of potential candidates."

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition."

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history.

SECTION 4. WORKFORCE SAFETY AND INSURANCE - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2007-08 interim, the workforce safety and insurance governance changes made during the 2007 legislative session. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Page 5, remove lines 12 through 18

Renumber accordingly

Engrossed HB 1460 was placed on the Seventh order of business on the calendar.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, replace "section" with "sections 44-11-01 and"

Page 1, line 2, replace "membership" with "of directors membership and board member removal"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 44-11-01 of the North Dakota Century Code is amended and reenacted as follows:

44-11-01. What officers removable by governor - Grounds. The governor may remove from office any county commissioner, sheriff, coroner, county auditor, recorder, state's attorney, county treasurer, superintendent of schools, county commissioner, surveyor, public administrator, city auditor, city commissioner, mayor, chief of police, deputy sheriff, or other police officer, township officer, rural fire protection district board member, school board member, member of the workforce safety and insurance board of directors, or any custodian of public moneys, except the state treasurer, whenever it appears to the governor by competent evidence and after a hearing as provided in this chapter, that the officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual drunkenness or gross incompetency."

Page 5, line 10, replace "1" with "2"

Page 5, line 11, replace "1" with "2"

Page 5, line 13, replace "1" with "2"

Page 5, line 15, replace "2" with "3"

Page 5, line 17, replace "1" with "2"

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1460 (, as (re)engrossed):

Date: 4-24-07

Your Conference Committee IBAL

For the Senate:		For the House:	
	YES / NO		YES / NO
<u>Sen Klein</u>	<u>X</u>	<u>Rep. Johnson</u>	<u>X</u>
<u>Sen Hacker</u>	<u>X</u>	<u>Rep. Keiser</u>	<u>X</u>
<u>Sen Potter</u>	<u>X</u>	<u>Rep. Boe</u>	<u>X</u>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Amendment .0220</u>	

MOTION MADE BY: Sen Hacker

SECONDED BY: Sen Klein

VOTE COUNT 4 YES 2 NO 0 ABSENT

Revised 4/1/05

Motion Fails

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1460

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "to provide for a legislative council study; and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 1, remove "two"

Page 5, line 2, overstrike "nonorganized labor" and insert immediately thereafter "two"

Page 5, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. The governor may reject a list of potential candidates representing employers, organized labor, or the North Dakota medical association and request that the submitting entity submit a new list of potential candidates.

3. The board may revoke the appointment of a board member for good cause after giving the member a written statement of the reason for removal and after that member has had an opportunity for a hearing."

Page 5, line 8, replace "3." with "4."

Page 5, after line 9, insert:

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not

include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition."

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history."

SECTION 4. WORKFORCE SAFETY AND INSURANCE - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2007-08 interim, the workforce safety and insurance governance changes made during the 2007 legislative session. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Page 5, remove lines 12 through 18

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1460 (, as (re)engrossed):

Date: 4-24-07

Your Conference Committee IB&L

For the Senate:		For the House:	
	YES / NO		YES / NO
<input checked="" type="checkbox"/> Sen Klein		<input checked="" type="checkbox"/> Rep. Johnson	
<input checked="" type="checkbox"/> Sen Hacker		<input checked="" type="checkbox"/> Rep. Keiser	
<input checked="" type="checkbox"/> Sen Potter		<input checked="" type="checkbox"/> Rep. Boe	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Amendment .0223</u>	

MOTION MADE BY: Rep. Keiser

SECONDED BY: Sen Klein

VOTE COUNT 1 YES 5 NO 0 ABSENT

Revised 4/1/05

Motion Fails

Conference Committee Amendments to Engrossed HB 1460 (70708.0224) - 04/25/2007

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "to provide for a legislative council study; and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Conference Committee Amendments to Engrossed HB 1460 (70708.0224) - 04/25/2007

Page 2, remove lines 1 through 30

Conference Committee Amendments to Engrossed HB 1460 (70708.0224) - 04/25/2007

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Conference Committee Amendments to Engrossed HB 1460 (70708.0224) - 04/25/2007

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Conference Committee Amendments to Engrossed HB 1460 (70708.0224) - 04/25/2007

Page 5, line 1, remove "two"

Page 5, line 2, overstrike "nonorganized labor" and insert immediately thereafter "two"

Page 5, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. Within the thirty days following receipt of a list of potential candidates representing employers, organized labor, or the North Dakota medical association, the governor may reject the list and request that the submitting entity submit a new list of potential candidates."

Page 5, after line 9, insert:

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition."

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the expiration of the member's appointed term, regardless of the member's wage-loss benefit history.

SECTION 4. WORKFORCE SAFETY AND INSURANCE - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2007-08 interim, the workforce safety and insurance governance changes made during the 2007 legislative session. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Page 5, remove lines 12 through 18

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1460 (, as (re)engrossed):

Date: 4-25-07

Your Conference Committee IB4L

For the Senate:	YES / NO		attend	For the House:		YES / NO	
<input checked="" type="checkbox"/> Sen Klein	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Johnson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen Hacker	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Keiser	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Sen Potter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Rep Boe	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment <u>Amendments .0224</u>	

MOTION MADE BY: Rep. Keiser

SECONDED BY: Sen Klein

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1460, as engrossed: Your conference committee (Sens. Klein, Hacker, Potter and Reps. N. Johnson, Keiser, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1465-1466, adopt amendments as follows, and place HB 1460 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1465 and 1466 of the House Journal and on pages 1283 and 1284 of the Senate Journal and that Engrossed House Bill No. 1460 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to employee awards and incentive spending authority; to"

Page 1, line 2, after the semicolon insert "to provide for a legislative council study; and"

Page 1, line 3, remove "; to provide an effective date; and to provide an expiration date"

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 19

Page 3, line 26, overstrike ", at least one of which must be a participant in"

Page 3, line 27, overstrike "the risk management program, at least two" and insert immediately thereafter "Two" and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 28, after "premiums" insert ", which at the time of the member's initial appointment were" and overstrike ", at least" and insert immediately thereafter an underscored semicolon

Page 3, line 29, overstrike "which" and insert immediately thereafter "the employer members" and overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was at least"

Page 3, line 30, overstrike ", at least" and insert immediately thereafter an underscored semicolon and overstrike "which" and insert immediately thereafter "the employer members"

Page 3, line 31, overstrike "of" and insert immediately thereafter ", which at the time of the member's initial appointment was", overstrike the comma and insert immediately thereafter an underscored semicolon, and overstrike "at"

Page 4, line 1, overstrike "least one" and insert immediately thereafter "two of the employer members must be" and overstrike "representative" and insert immediately thereafter "representatives"

Page 4, line 2, overstrike the first "representative" and insert immediately thereafter "representatives"

Page 4, line 4, overstrike "; at least one member must have"

Page 4, line 5, overstrike "received workforce safety and insurance benefits; and at least" and insert immediately thereafter ". Of the three employee members,"

Page 4, line 6, after "labor" insert "and one other member must have received workforce safety and insurance wage-loss benefits at some time during the ten years before the member's initial appointment"

Page 4, line 15, overstrike "Board members" and insert immediately thereafter "A board member whose initial appointment was before August 1, 2007,"

Page 4, line 16, remove the overstrike over "~~three~~" and insert immediately thereafter "consecutive terms and a board member whose initial appointment was after July 31, 2007, may not serve more than"

Page 4, line 22, overstrike "the"

Page 4, line 25, replace "greater North Dakota chamber of commerce" with "a coordinating committee appointed by the governor, composed of representatives from the associated general contractors of North Dakota, the North Dakota petroleum council, the greater North Dakota chamber of commerce, the North Dakota motor carriers association, the North Dakota healthcare association, the national federation of independent business, the lignite energy council, and other statewide business interests"

Page 4, line 26, remove "working together with other business organizations in the state"

Page 5, line 1, remove "two"

Page 5, line 2, overstrike "nonorganized labor" and insert immediately thereafter "two"

Page 5, line 3, after "representatives" insert "who do not represent organized labor"

Page 5, after line 7, insert:

"e. Within the thirty days following receipt of a list of potential candidates representing employers, organized labor, or the North Dakota medical association, the governor may reject the list and request that the submitting entity submit a new list of potential candidates."

Page 5, after line 9, insert:

"SECTION 2. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Spending authority - Limited. Notwithstanding any other law enacted by the sixtieth legislative assembly, any statement of legislative intent, any statement of purpose of amendment, or other provision of law, the organization may not expend funds for the purpose of providing workers' compensation education or training for public officials other than the director and members of the board, or for providing awards, other than service awards or other awards or incentives allowed under law and applicable to executive branch agencies. For purposes of this section, award does not include a nonwage, cash disbursement to an organization employee through a performance-based system for employee recognition."

Page 5, line 11, replace "Under section 1 of this Act, a board" with "The board member serving on August 1, 2007, as the representative of the risk management program shall serve the remainder of the appointed term as the employer at-large representative. The employee board member serving on August 1, 2007, as the employee who has received workforce safety and insurance benefits shall continue to serve through the

expiration of the member's appointed term, regardless of the member's wage-loss benefit history.

SECTION 4. WORKFORCE SAFETY AND INSURANCE - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2007-08 interim, the workforce safety and insurance governance changes made during the 2007 legislative session. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Page 5, remove lines 12 through 18

Renumber accordingly

Engrossed HB 1460 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1460

Board Members:

Robert M. Indvik, Chair

(Employer Representation)

Terms:

January 2007 - December 2010

January 2001 - December 2006

January 1998 - December 2000

Brad Ballweber

(Employee Representation)

Terms:

January 2007 - December 2010

Mark Gjovig

(Employer Representation: \$10,000 - \$25,000 in Premium)

Term:

January 2003 - December 2008

Committees:

Audit Committee

Executive Performance Committee

Mark Jackson

(Employer Representation: Over \$25,000 in Premium)

Term:

January 2007 - December 2010

Evan Mandigo

(Employee Representation)

Terms:

January 2005 - December 2008

January 1999 - December 2004

January 1998 - December 1998

Committee:

Audit Committee, Chairman

Roberta Ripplinger

(Member At Large)

Term:

January 2007 - December 2010

August 2003 - December 2006

(Roberta Ripplinger assumed this Board position in December 2004, filling an unexpired term that ran through December 2006.)

Denny Schneider

(Employer Representation: Under \$10,000 in Premium)

Terms:

January 2005 - December 2008

January 1999 - December 2004

Committee:

Legislative Committee

John Eickhof

(Employer Representation: Over \$25,000 in Premium)

Terms:

January 2007 - December 2008

(John Eickhof assumed this Board position in January 2007, filling an unexpired term that runs through December 2008.)

J.P. Wiest

(Employer Representation: Risk Management Program)

Term:

January 2005 - December 2008

Ernest Godfread, M.D.

(North Dakota Medical Association Representation)

Term:

January 2007 - December 2010

Terry Curl

(Employee Representation: Organized Labor)

Term:

December 2003 - December 2008

(Terry Curl assumed this Board position in December 2005, filling an unexpired term that will run through December 2008.)

House Bill NO. 1460-----First Engrossment

Senate I, B&L Committee

March 07, 2007

Testimony of:
ND AFL-CIO
David L. Kemnitz; President

SB 2073 was heard by the Senate I, B&L committee on January 16, 2007. After that hearing the committee amended line 23 of that bill, replacing the first work "one" with the word "two".

This change then read as follows beginning on Line 22 and ending on Line 23.
"Of the three employee members, two must have received workforce safety and insurance benefits."

We are asking the Senate I, B&L committee to consider changing the language in HB 1460, page 1, lines 20, 21 & 22 to read in the same manner as the agreed to language in Engrossed Senate Bill NO. 2073. SB 2073 passed the Senate on Jan. 26.

01/26 Senate Second reading, passed, yeas 042 nays SJ 200
000

Engrossed SB 2073, lines 20, 21, 22 & 23 now read as follows: See attached page 1.

"Three members represent employees. One member must represent organized labor. Of the three employee members, two must have received workforce safety and insurance benefits."

We would like the committee to consider this observation concerning the WSI Board of Directors.

The WSI Board of Directors, by NDCC 65-02-03.1 consists of eleven voting members. Of those eleven, 6 are employer representatives, 3 represent employees, 1 represents the medical association and 1 is a member-at-large. This mandated representation allows for a majority vote to be carried by one group only, that being the employer members. No combination of the remaining voters would overcome that majority. We therefore ask that the Senate I, B&L committee consider requiring a 2/3rds. majority vote (8 of the 11 eligible votes) on all policy decisions made by the WSI Board.

This requirement could be included in 65-02-03.3. Board—Powers and duties.

#1
1460

60th Legislative Assembly - Post Crossover - Active Bill Status

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last week	Board Action/Position	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
SB 2021 Testimony: Jim Long	WSI Appropriation http://www.legis.nd.gov/assembly/60-2007/bill-text/HQNP0300.pdf 2nd engrossment	APPR Referred to House APPR (21Feb07)		- Board Supports w/understanding WSI will work w/Approp Comm to reinstate request for 14 additional FTEs and <u>funding</u> - Validate w/board - - Brd supports resubmission to clarify WSI original request - 11Jan07	9/3 as amended 12Feb07	Consideration of Amendments 27/19 13Jan07 32/14 Passed 14Feb07			
SB 2036 Testimony: Anne Green	PEO Registration http://www.legis.nd.gov/assembly/60-2007/bill-text/HAB60600.pdf engrossed version	1 Jan 07 IBL Referred to House IBL (31Jan07)		Board Supports, 11Jan07	7/0 as amended 23Jan07	42/0 Passed 26Jan07			

1460
1#

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/rationale	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
--------	---------------------------	---	------	------------------------	-----------------------	----------------	-----------------------	---------------	------------

SB 2042 Testimony: T Wahlin	LRC False Positives http://www.legis.nd.gov/assembly/60-2007/bill-text/HADV0400.pdf engrossed version	8 Jan 07 18 Jan 07 IBL Referred to House IBL (31Jan07)		-Board Supports -Proposed amendment(s) -Brd supports amendment backdating false positives to 1Dec04 -Brd neutral on proposed amendment to include law enforcement officers under cancer presumption, 11Jan07	7/0 As amended & amend did not include cancer presumption 17Jan07		43/0 Passed 19Jan07	13/0 27Feb07		^{2nd} Reading 92/0 Passed 1Mar07	
SB 2072 Testimony: Rob Forward	Injury Services http://www.legis.nd.gov/assembly/60-2007/bill-text/HQTK0300.pdf 2nd engrossment	12 Jan 07 31Jan07 IBL Referred to House IBL (31Jan07)		-Board Supports -Brd reaffirmed support w/amendment, 25Jan07	4/3 as amended 23Jan07		Engrossed Bill divided: A-84&5 Passed 46/0 B-Divided 82 only Passed 28/18 & Remainder of bill, Division C which excludes 82,4&5 Failed 15/31 Divided bill 82, 4&5 Passed 46/0 29Jan07	Amendment passed 9/4 28Feb07			

1461 #
 3/1/07 - 0900

Bill	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Decision	Committee		Senate Vote	Committee		House Vote	Gov Signed
					Pass	DNP		Pass	DNP		
SB 2073 Testimony: Jodi Bjornson	Board of Directors http://www.legis.nd.gov/assembly/60-2007/bill-text/HQJTJ0200.pdf engrossed version	IBL Referred to House IBL (31Jan07)		-Board Supports -Brd reaffirmed support w/amendment, 25Jan07	7/0 as amended 23Jan07		42/0 Passed 26Jan07				
SB 2123 Testimony: Anne Green	Employer Services http://www.legis.nd.gov/assembly/60-2007/bill-text/HQTL0200.pdf engrossed version	12 Jan 07 24 Jan 07 IBL Referred to House IBL (31Jan07)		-Board Supports -Brd reaffirmed support w/amendment, 25Jan07	7/0 as amended 23Jan07		42/0 Passed 26Jan07				
SB 2134 Testimony: Harvey Hanel	Related to Pharmacy & Controlled Substances http://www.legis.nd.gov/assembly/60-2007/bill-text/HQUP0200.pdf engrossed version	2 Jan 07 23 Jan 07 HUMSER Rereferred to APPR (23Jan07) Referred to House HUMSER (1Feb07) Rereferred 1Mar07		Board Supports, 11Jan07	6/0 as amended 22Jan07 11/0 from rereferral vote 26Jan07		46/0 Passed 30Jan07 w/emergency clause	22/0 27Feb07			
SB 2257 Testimony: Jodi/Bob I	Creation of Advisory Brd http://www.legis.nd.gov/assembly/60-2007/bill-text/HAMM0200.pdf engrossed version	19 Jan 07 30 Jan 07 IBL Referred to House IBL (1Feb07)		Board Opposes, 18Jan07 -Brd will support w/pending amendment, 25Jan07	5/2 as amended 29Jan07		Consideration of amendments 24/22 Floor Vote on amended bill 25/21 Passed 30Jan07		13/1 28Feb07		
HB 1038 Testimony: T Wahlin	LRC Benefits http://www.legis.nd.gov/assembly/60-2007/bill-text/HAJA0200.pdf	8 Jan 07 IBL Referred to Senate IBL (26Feb07)		-Board Supports -Brd supports amendment or new bill, 11Jan07				12/1 6Feb07		91/1 Passed 12Feb07	

1460 #
3/1/07 - 0900

Bill	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Version	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
HB 1140 Testimony: Tim Wahlin	TPD inflationary adjustment http://www.legis.nd.gov/assembly/60-2007/bill-text/HAUH0200.pdf engrossed version	26 Jan 07 9 Feb 07 IBL Referred to Senate IBL (26Feb07)		Board Supports, 11Jan07			11/0 as amended 9Feb07	91/0 Passed 12Feb07	
HB 1156 Testimony: Jodi Bjornson	Workers Compensation Review Committee - Remove Sunset http://www.legis.nd.gov/assembly/60-2007/bill-text/HARH0100.pdf	5 Jan 07 IBL Referred to Senate IBL (7Feb07)		Board Supports, 11Jan07			11/0 30Jan07	89/0 Passed 31Jan07	
HB 1411 Testimony: Anne Green	Modification to real estate & vehicles http://www.legis.nd.gov/assembly/60-2007/bill-text/HBNO0100.pdf	19 Jan 07 IBL Referred to Senate IBL (26Feb07)		Board Supports, 18Jan07			12/1 9Feb07	92/0 Passed 12Feb07 w/emergency clause	
HB 1517 Testimony: Anne Green	Release of WC information http://www.legis.nd.gov/assembly/60-2007/bill-text/HBKH0200.pdf engrossed version	IBL Referred to Senate IBL (26Feb07)		Board Supports w/proposed amendment, 25Jan07			13/0 as amended 31Jan07	92/0 Passed 12Feb07	
SB 2015 Testimony: Jim Long	Employee Compensation http://www.legis.nd.gov/assembly/60-2007/bill-text/HQNJ0200.pdf engrossed version	2 Jan 07 APPR Referred to House Approp 21Feb07		-Brd does not support, however, Brd supports proposed amendment to exclude WSI from <u>any state employee compensation bill</u> and maintain its Pay for Performance system. 11 Jan 07	14/0 14Feb07 as amended	47/0 Passed 15Feb07			

1460 #
3/1/07 - 0900

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Position	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
SB 2189 Testimony: Jim Long	State employee equity adjustments http://www.legis.nd.gov/assembly/60-2007/bill-text/HBFG0200.pdf	APPR Referred to House APPR (30Jan07)		--Brd does not support, however, Brd supports proposed amendment to exclude WSI from <u>any state employee compensation bill</u> and maintain its Pay for Performance system. 11 Jan 07	13/0 19Jan07	45/0 floor amendment failed, 22Jan07	24/0 2Feb07	90/0 Passed 5Feb07	Signed t Gov 7Feb07
SB 2292 Testimony: Anne Green	Transfer OIR http://www.legis.nd.gov/assembly/60-2007/bill-text/HBLR0200.pdf engrossed version	19 Jan 07 12 Feb 07 IBL Referred to House IBL 21Feb07		Board Opposes, 18Jan07	4/2 as amended 9Feb07	39/7 Passed 14Feb07	8/5		
SB 2342 Testimony: Rob Forward	Timely processing of claims http://www.legis.nd.gov/assembly/60-2007/bill-text/HBID0100.pdf	5 Feb 07 IBL Referred to House IBL 21Feb07		-Board Opposes, 25Jan07	4/3 9Feb07	29/17 Passed 13Feb07			
HB 1460 Testimony: Jodi/Bob I	Board membership http://www.legis.nd.gov/assembly/60-2007/bill-text/HBKE0200.pdf engrossed version	IBL Referred to Senate IBL (26Feb07)		Board Opposes, 18Jan07 Board Supports amended version 8Feb07		10/4 As amended 8Feb07		61/31 Passed 12Feb07	
SB 2028	Bldg Maintenance Account http://www.legis.nd.gov/assembly/60-2007/bill-text/HAAAM0300.pdf	APPR Referred to House APPR (21Jan07)			13/0 11Jan07	45/0 Passed 12Jan07	23/0 27Feb07	91/0 Passed 26Feb07	
SB 2037	ITD http://www.legis.nd.gov/assembly/60-2007/bill-text/HAAAF0500.pdf engrossed version	27 Dec 06 20 Jan 07 Judiciary Referred to House IBL (31Jan07)		Monitor through crossover to see if further action required	6/0 as amended 16Jan07	43/0 Passed 19Jan07			

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Position	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
SB 2038	ITD http://www.legis.nd.gov/assembly/60-2007/bill_text/HAAQ0300.pdf engrossed version	27 Dec 06 GVA Referred to House GVA (1Feb07)		Monitor through crossover to sec if further action required	5/1 as amended 26Jan07	45/1 Passed 30Jan07			
SB 2053	Audits of Computer Systems http://www.legis.nd.gov/assembly/60-2007/bill_text/HQNT0200.pdf engrossed version	POLSUB Referred to House POLSUB (31Jan07)			5/0 as amended 15Jan07	45/0 Passed 29Jan07			
SB 2092	Expenditures from Workers Compensation Fund http://www.legis.nd.gov/assembly/60-2007/bill_text/HQPL0100.pdf	4 Jan 07 IBL Referred to House IBL (31Jan07)			7/0 11Jan07	45/0 Passed 12Jan07	14/0 27Feb07	91/0 Passed 1Mar07	
SB 2294 Testimony: Rob Forward	Reopening of presumed closed claims http://www.legis.nd.gov/assembly/60-2007/bill_text/HBLN0200.pdf engrossed version	21 Jan 07 IBL Referred to House IBL (13Feb07)		-Board Opposes, 18Jan07 -amendment pending, 25Jan07 Brd changed its position to Neutral based on amendment 1Feb07	7/0 as amended 7Feb07	45/0 Passed 9Feb07	14/0		
SB 2389 Testimony: Tim Wabun	PPI awards http://www.legis.nd.gov/assembly/60-2007/bill_text/HBPL0200.pdf engrossed version	2 Feb 07 12 Feb 07 IBL Referred to House IBL 21Feb07		Board Neutral, 25Jan07	6/0 as amended 9Feb07	45/0 Passed 14Feb07	14/0		

0971

3/1/07 - 0900

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Position	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
HB 1102	Authorized Fees for A & E Services http://www.legis.nd.gov/assembly/60-2007/bill-text/HQPG0100.pdf	Gov & Vet Affairs Referred to Senate TBL (13Feb07)					13/0 10Jan07	85/8 Passed 1Jan07	
HB 1106	Legislative Reimbursement http://www.legis.nd.gov/assembly/60-2007/bill-text/HAGS0200.pdf engrossed version	2 Jan 07 6 Feb 06 Gov & Vet Affairs Rereferred APPR Referred to Senate APPR (27Feb07)					8/4 as amended 27Feb07	14/10 Passed 14Feb07 63/28 Passed 2nd Reading 13Feb07	
HB 1107	Travel Expense Reimbursement http://www.legis.nd.gov/assembly/60-2007/bill-text/HAGT0200.pdf engrossed version	3 Jan 07 6 Feb 07 Gov & Vet Affairs Rereferred APPR Referred to Senate APPR (27Feb07)					11/1 27Feb07	24/0 Passed 14Feb07 87/4 Passed 1st Reading 13Feb07	
HB 1174	State Employment Review Commission http://www.legis.nd.gov/assembly/60-2007/bill-text/HADT0200.pdf engrossed version	31 Jan 07 8 Jan 07 Gov & Vet Affairs Referred to Senate APPR (14Feb07)		Monitor only			11/1 as amended 29Jan07	57/32 Passed 31Jan07	
HB 1211 Testimony: Anne Green	Garnishment http://www.legis.nd.gov/assembly/60-2007/bill-text/HBFG0200.pdf engrossed version	Judiciary Referred to Senate JUD (13Feb07)			6/0 26Feb07	2nd Reading 46/0 Passed 1Mar07	13/1 as amended 27Feb07	86/4 Passed 1Feb07	

Bill #	Description of Initiative	Fiscal Note/ Committee of Assignment	Last	Board Action/Revision	Committee Pass DNP	Senate Vote	Committee Pass DNP	House Vote	Gov Signed
--------	---------------------------	--	------	-----------------------	-----------------------	----------------	-----------------------	---------------	------------

HB 1299	Relating to pharmacies http://www.legis.nd.gov/assembly/60-2007/bill-text/HB0200.pdf engrossed version	HUMSER Referred to Senate HUMSER (26Feb07)		Monitor only				9/3 As amended 12Feb07	78/14 Passed 14Feb07	
HB 1318	IT responsibilities of the state auditor http://www.legis.nd.gov/assembly/60-2007/bill-text/HB0100.pdf	Gov & Vet Affairs Referred to Senate GVA (13Feb07)		Monitor only	6/0 23Feb07	47/0 Passed 26Feb07		7/5 19Jan07	83/9 Passed 23Jan07	
HCR 3055	Executive branch organization http://www.legis.nd.gov/assembly/60-2007/bill-text/HGIB0300.pdf engrossed version	CON REV (12Feb07)		Board Neutral 15Jan07				8/1 as amended w/o re-consider 28Feb07		

Color Code

Blue = New this week

Red = Opposed

Yellow = Neutral/Monitor

Green = Approved

(p) = Printed Copy

0971 #

3/1/07 - 0900