MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

2342

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2342

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2342**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **February 6, 2007**

Recorder Job Number: **2904**

Committee Clerk Signature

Senator John Andrist Bill – timely processing of claims

Sentator Heitkamp – Reading TESTIMONY # 1 presented by Senator Andrist

[S Andrist unable to attend session as his wife was having surgery]

S Heitkamp: Suggested he would be a co-sponsor of the bill, the bill needs to pass. Early decision-making should be a part of the process, the claimant knows where he stands, he/she the better off he is.

Dave Kemnitz – Pres. AFLCIO - *In Favor*

Agrees with testimony.

Sebald Vetter – Worker – *In Favor*

Workman's Comp should respond sooner with a yes or no and not have to wait.

Leroy Volk – Injured Worker - *In Favor*

I would be working if they would have acted sooner

OPPOSITION

Rob Forward – Attorney WSI - *In Opposition*

TESTIMONY # 2 – [covered testimony ends 8:36m]

S Klein: In your testimony, you indicated that less than 2% of the claims require a decision that takes more than 60 days?

R Forward: Yes. The numbers right now is that for 2006, out of 20,000 claims, 411 claims that took over 60 days to make a decision. Of those 411, about 64% we accepted.

S Klein: You talk about "unintended effect", putting them at odds. Example?

R Forward: Can read except, polled the claims adjusters on this, and got frank responses.

One of the claims adjusters: [read 10:16m]

Autopsies – the state lab it is usual to get information after 60 days.

S Hacker: Two questions: would it help if we exempted death claims?

R Forward: It would put the family in a better situation.

S Hacker: If 411 went over 60 days, what is the other time?

R Forward: 61days to the longest being 158 days, with the bulk of 411 in the 65-70 days range.

S Klein: Death or injury, if it reached 60 day threshold and you have lack of information it will create a conflict.

R Forward: Yes\

OPPOSITION? [none]

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2342 B**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **February 7, 2007**

Recorder Job Number: **3025**

Committee Clerk Signature

Requires that WSI reach a determination at 60 day cutoff.:

S Klein: I thought it was a good idea in listening to the testimony that out of 20,000 claims we reach a 411 at the 60 day and almost than ½ of that after 70 days that maybe we are creating a problem. It is the 2% that go over the 60 days was minimal.

S Behm: I'm getting a lot of emails. The people that are dragging their feet, could have gotten it done faster.

S Klein: I'm going by the testimony of the 2% of the 20,000 claims, and yes, there are some folks who have gone over. This bill was a result of S Andrist's constituent who is now at 138 days. My concern is, the claims adjuster who will say, "That will really put us in a box to try to cut this loose, and even if you have more information coming." I don't want that to happen.

S Hacker: We asked how many went over 60 days with 411, and they said the bulk of those is still in the 60's. 5 days, hanging out a little extra, so they can appeal, and go through the whole appeal process, I think we're going to cause more headaches for these workers than if they get accepted on the 67th day. There is a reason why some of these are running longer. They're likely investigating to see if it is a good claim or not.

S Potter: Tough to get the medical establishment to move and provide you with the records I can't take credibility to testimony of WSI, it may be that they picked 60 because the claimants have to have the information in. I would like to amend it to 60-75 days window.

S Hacker: will they get complacent with 90 days?

S Klein: Now they have 90

S Behm: Suggest 75

S Klein: Don't have to crank them out so fast.

S Potter: Now there is no limit. The legislative intent is to get them done as soon as possible.

S Wanzek: In the policy, claims should be settled in a fast, efficient and prudently as possible.

S Klein: In the last 10 years, WSI has been their goal that statistically we know if you don't get people back doing something or making the determination, you're going to have a long term claim, they have put upon themselves to get them out as quickly as possible.

S Wanzek: S Potter said 60 days.

S Potter: To make a claim.

S Wanzek: It was suggested for 75 days, then they would have 30 days to appeal

S Klein: They would have 30 day appeal window for decisions to be made, the clock starts ticking.

S Hacker: Death benefit, is somehow is exempt from the death claims.

S Potter: They should be in such a hurry to deny a claim for somebody who's dead, no hurry, the one amendment is a simple one, we need an amendment on line 7, change word 60 – 75 and on line 8 change 61-76.

S Heitkamp: Why?

S Potter: There are claims that run over 60 days, but the bulk of them run 65, 66, 67 days, this gives them another 15 days to process the claim and not have to deny it.

S Heitkamp: How long can you go without paying your bills, once you get past 60 days. Isn't it a signal for WSI to "step it up?" Once you get past 60 days with people like this, you're in trouble, it's going to start mounting, I like the 60 days. If we amend it up here, you can almost be it's going to be amended in the House and then we'll be sitting in the conference committee. I'm going to resist the amendments.

S Wanzek: Question to S Heitkamp: I couldn't agree with you more, at 60 days is reasonable, we could ask, "why is it taking longer?" 65% of the claims that go over go to the injured worker. If we push too hard, this will result in it negatively.

S Heitkamp: The problem comes when it comes to those working from paycheck to paycheck. Anything to step up the action will help.

S Wanzek: We've all been there.

S Hacker: [Suggested 75 days]

S Klein: So do I understand, 75 days and also some language that separates the death benefit?

S Hacker: I read the bill, we don't need that, death benefit is within 6 months of death.

S Potter: Motion to change 75 days on line 7, 76 on line 8 on amendment.

Second: S Hacker

Vote: 3-3-1 Vote Fails on tie

S Potter: Motion DO PASS

Second: S Heitkamp

Vote 3-3-1 Vote Fails on tie

S Wanzek Motion WITHOUT RECOMMENDATION

Second: S Hacker

Vote 6-0-1

Without recommendation 6-0-1

Carrier: S Hacker

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.**SB 2342 C**

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **February 7, 2007**

Recorder Job Number: **3057**

Committee Clerk Signature

Senator Andrist bill – Retraction

S Klein: Senator Andrist is back, in AM took action on the bill to send WITHOUT RECOMMENDATION

S Wanzek: I move that we **reconsider our actions** on sending the bill out without recommendation.

Second by S Hacker

All in favor: AYE – passed

S Klein: S Andrist, in our discussions today, this was your bill, we passed it as the bill was, it came out 3-3- and 3-3, so we passed it out without committee recommendation. Your bill,

S Heitkamp: It should be pointed out that THESE 3 [Democrats] were with you. There's a couple votes coming up, I hope you keep that in mind.

S Andrist: Basis for the bill was that in today's world you're credible if you can't figure out whether you're going to accept the claim within 60 days or not. There is a way to do that and they need to find a way to do that, I think.

Move a DO PASS by S Potter

Second by S Behm

Vote for a DO PASS: 4 – 3 [neg Klein, Hacker, Wanzek]

Passed 4-3-

Carrier: Behm

FISCAL NOTE

Requested by Legislative Council
01/22/2007

Bill/Resolution No.: SB 2342

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

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

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

The proposed legislation requires claim approval when no decision has been made within 60 days from the date in which the claim was filed.

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

WORKFORCE SAFETY & INSURANCE
2007 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2342

BILL DESCRIPTION: Timely Claim Processing

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation requires claim approval when no decision has been made within 60 days from the date in which the claim was filed.

FISCAL IMPACT: Not quantifiable as we do not have access to sufficient data to permit a comprehensive evaluation of the potential impact of this proposed legislation.

As we understand the proposed legislation, a claim will be deemed approved if it is still pending sixty days after it is filed with WSI. In the event that a claim is deemed approved under this section, WSI will bear the burden of proving the claimant's lack of entitlement to benefits. Furthermore, WSI will be prevented from seeking repayment or recovery if a claimant incurs an overpayment under this process.

We cannot definitively predict how the claims environment may change under the proposed legislation. To the extent the proposed legislation increases the number of claims dismissals as claims approach the 60 day time period due to lack of information, administrative and legal costs could increase in conjunction with implementation of the proposed time table. To the extent the proposal allows for claims being approved that otherwise should not have been, benefit costs will increase accordingly.

To the extent benefit and other costs increase as a result of this proposal, the costs will flow through future premium rate levels.

DATE: February 5, 2007

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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

Name:	John Halvorson	**Agency:**	WSI
Phone Number:	328-3760	**Date Prepared:**	02/05/2007

Date: 2-7-07

Roll Call Vote : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2342

Senate **INDUSTRY BUSINESS & LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken 75 days - line 7 76 on line 8 Amendments

Motion Made By Potter Seconded By Hacker

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Art		✓
Senator Hacker, Nick, VC	✓		Senator Heitkamp, Joel		✓
Senator Andrist, John	NP		Senator Potter, Tracy	✓	
Senator Wanzek, Terry		✓			

Total Yes 3 No 3 FAILS.

Absent 1

Floor Assignment

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

Date: 2-7-07

Roll Call Vote : 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2347

Senate **INDUSTRY BUSINESS & LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Potter Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry		✓	Senator Behm, Art	✓	
Senator Hacker, Nick, VC		✓	Senator Heitkamp, Joel	✓	
Senator Andrist, John		NP	Senator Potter, Tracy	✓	
Senator Wanzek, Terry		✓			

Total Yes 3 No 3 FAILS

Absent 1 LACK

Floor Assignment MAJORITY

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

Date: 2-7-07

Roll Call Vote : 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2342

Senate **INDUSTRY BUSINESS & LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number [redacted]

Action Taken W/O [redacted] recommendation

Motion Made By Wanzek Seconded By Hacker

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Art	✓	
Senator Hacker, Nick, VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	NV		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 6 No 0

Absent 1

Floor Assignment Hacker

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

S. ANDRIST -.

Date: 2-7-07

Roll Call Vote : 2342 pm 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2342

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Reconsider -

Motion Made By Wanzek Seconded By Hacker

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry			Senator Behm, Art		
Senator Hacker, Nick, VC			Senator Heitkamp, Joel		
Senator Andrist, John			Senator Potter, Tracy		
Senator Wanzek, Terry					

Total Yes Aye No

Absent

Floor Assignment

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

Date: 2-7-07

Roll Call Vote : 2342 pm 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2342

Senate **INDUSTRY BUSINESS & LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do PASS

Motion Made By Potter Seconded By Behm

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry		✓	Senator Behm, Art	✓	
Senator Hacker, Nick, VC		✓	Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry		✓			

Total Yes 4 No 3

Absent

Floor Assignment Behm

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

REPORT OF STANDING COMMITTEE

SB 2342: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2342 was placed on the Eleventh order on the calendar.

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2342

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2342

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: 02-28-2007

Recorder Job Number: 4062

Committee Clerk Signature Lisa M. Thomas

Minutes:

Chairman Keiser opened the hearing on SB 2342.

Senator Andrist introduced the bill. See written testimony.

Rep. Zaiser: I appreciate your sincere comments. I am just curious if within your district if you have had any other people that have talked to you about these kinds of delays in getting a response?

Sen. Andrist: No, I don't have any first hand knowledge. I have had anecdotal information come to me. I don't think it happens often. That to me is the point. It is not going to be a heavy burden to WSI because most of the time they get this covered. It just holds their feet to the fire to make sure that they move forward with the claim and not let it fall through the cracks.

David Kemnitz, AFL-CIO, spoke in support of the bill.

Kemnitz: When I read the bill several things come up that show that there was lots of thought put into this. What to do and how to make sure that there is always a door. If I read it correctly, it is the original claim, not an ongoing or something that has already been established and closed and in the sixty day clock runs only on the original claim. Then on line ten I circled the middle of the sentence where it says 'the organization bares the burden of proving the claimants lack of entitlement to benefits'. To me that says that within that sixty days until we

get to a fifty-nine and the bill says we are not sure yet. But now we are going to trigger this acceptance. If they find clear evidence that there is no medical evidence or a new finding, they can go back and say okay, we have proof enough and it's the burden of proof, not clear and convincing or beyond, it's the opening threshold that the bureau then has to reverse that sixty-day clock and that is on ten and eleven. On twelve, there is also an opportunity that if this claim was fraudulent by a claimant it automatically reverses that sixty day push. Then line fourteen starting with the first full sentence, a claimant may not be awarded benefits under the section if the claimant is not cooperating with requests from the organization for additional information needed to process the claim. To me that is a frivolous claims are triggered automatically denial, the trigger is there. So someone can't just throw the claim out there and it's a difficult one and then sits back and waits until you prove me different. That is not the way this is going to run. They have to cooperate with the bureau and the investigation and the medical records and the history of the injury. The claimant has to cooperate and if they don't those sixty days is waived. I think there is some movement on both sides of this and I think the Senator well explained. In giving the attributes to the rider, he and others, it is quite thoughtful on this move and collaborative with the bureau. In the WSI operating report, under the initial acceptance rates of claims, they show that in 2004 they had a ninety three percent initial acceptance rate. They trimmed it down in 2005, it went to ninety-one percent and in 2006 to eighty-six percent and in 2007 eighty-four percent to date. In other areas of claims adjudication and acceptance they targets. They say that the targets are industry averages on standards are difficult to obtain. As there are differences between programs and corresponding laws from state to state consequently target that reflected has met goals, rather than as an industry having a standard. So as I looked at this bill again I see that those sponsors said 'let's set a

target, but let's make sure that mitigating circumstances on behalf of this organization are addressed'.

Rep. Ruby: The question was asked of the sponsor of how have other cases that are going longer, I am just wondering if the times when they are complicated injuries and things that maybe people being treated in different places, are sixty-days too short. I can see that there should be some kind of definitive time but I am concerned of making it too tight where there would be possibly the wrong decision made.

Kemnitz: We are talking about battling entities between a personal insurance and an industrial insurer and whether they have jurisdiction at all. Back to code one, what Sen. Andrist said that it has always been preached that the early intervention is absolutely necessary. There is a particular case that a representative asked me about two days ago. He had a constituent that called him they had what they felt was an on the job injury and had neurological damage where the arm was becoming numb. They were having difficulties getting anyone to accept liability of the medical and so the person wasn't getting medical attention. I went to Sen. Kilzer and asked what we should do. He said the number one thing to do is get medical attention he is only going to get worse if it is neurological and involves the vertebrae in the neck it could be permanent. The Rep. wasn't sure if he had any medical coverage so that stopped that individual. In the instance that the Rep. was called because the bureau wasn't engaging in that decision and saying do something so I directed the Rep. directly to Sandy Blunt. Some of these things need to be moved quicker. In the end, if the bureau proves which is the burden of proof that the claim was not legitimate claim, it is reversed and that claimant now is subject to further medical attention on their own so yes there can be instances of all kinds. In the first position someone needs to make sure that these things are moved along.

Rep. Ruby: In a situation like that I am wondering because the claim could be filed more than likely within twenty four hours, there is just an emphasis to get that claim file or incident file immediately and so there may be times when an incident is filed and possibly an incident is filed and eventually that led to yes, they need some type of and I have had that situation where they need something today and an incident report. But if they came back at a later time and said they had been having some problems and had a doctor look at the ankle or whatever and the incident report was filed and that was the original claim, I am wondering if there might be some instances where that can catch.

Kemnitz: Well, if that is a particular sticking point you may want to hold the bill.

Rep. Thorpe: On lines fourteen, fifteen and sixteen, are you comfortable with the language in there? It looks like this is new language all the way through WSI.

Kemnitz: I think the bureau could answer that closer than I can. My perception as I look at it, it is a new section because it is a new separate from an accepted claim. What we are looking at here, I believe is that claim, the original claim has not been accepted by anyone yet. Some jurisdictions and other applicable law aren't engaged at that time until the bureau accepts the claim. Well this addresses when the bureau does not accept the claim in the sixty days. There has to be a stipulation I am assuming to say that the claimant needs to be cooperative. If they are bed ridden or somehow indisposed, they can overcome that too by that proof or at least witnesses to overcome the not cooperating allegation from the bureau. In this instance because no one has accepted it, yes, I would bet that the language says there isn't anything else in the statute that applies and this would control only in the instance of the sixty days of not being accepted. Once they are accepted, the rest of the chapter applies.

Sebold Vetter, CARE, spoke in support of the bill.

Vetter: I got a few comments on these sixty days. I had a client here last November which signed from November until February. I think sixty days for worker's comp should be enough too. We get less than that. A man has a neck injury and come down to my office twice and the second time he came down there he was going to commit suicide in February and the man had pain real bad. His eyes were popping out of his head and he said he didn't know what he should do. I can't get any help and the doctors told me that I need surgery and they don't approve it. I went over to Chuck and the man got real hostile over there just like I did and he slammed on the table and he says this is enough is enough. I am going to commit suicide and take those people along. I said Chuck you gotta do something. The next day he had an answer. The man went in and got surgery and three weeks later he was working. Why do people have to wait so long and walk around with injuries and try to commit suicide. It is a bill that should be looked at and maybe there should be some changes made, but I think sixty days is enough for them too.

Opposition was heard at this time.

Rob Forward, Staff Counsel for WSI, spoke in opposition to the bill. See written testimony.

Rep. Zaiser: I was just curious if we were to make a change that would ask WSI to explain to the claimant why they need more information and why having a problem and the additional information is needed and why that causes an extension or more than sixty days. Have this with that exception, what do you think of that?

Forward: If communication is the problem that probably would be a welcome change. I can see situations where injured workers don't quite understand the process. I will give you an extreme example that is usually with our death claims. Unfortunately with our death claims, it's one of the claims that would be adversely affected by this. We have a family that has lost someone. We can't make a determination until the state health department does an autopsy

and then does its lab work. I talked to our adjuster that handles all of our death claims before I testified on this in the Senate. She told me that usually she does not get the lab work from the state lab anywhere earlier from eight to twelve weeks after the autopsy is done. That is not due to anything that WSI has done. In that situation, I know we talk to the families and told them that is what is holding up our decision but because criminal take precedence with the state crime lab, the WSI lab work gets shoved to the back and we have to wait. Those families are not always receptive to that.

Rep. Zaiser: Why would you be apposed to something like that and why wouldn't that be a good thing even though certainly, a family wants to get results ASAP, I would think this would be a good intermediate measure that might be beneficial to both parties.

Forward: That is an option. I don't have the authority to say yeah, WSI will do that. I understand your point.

Rep. Keiser: On the death claim you have six months.

Forward: No, the wording says if they file a claim, it's six months.

Rep. Ruby: In the interest of coming up with some specific time frame, you have an alternative recommendation or possible idea, you say less than two percent are required to go longer than sixty days. Is eighty days, where is an acceptable so that the injured worker would know by a certain time and have an idea when they could get the claim or move on to another option?

Forward: I don't have a recommendation. I can tell you what is stats show. I've got claims pending between July 1st, 2006 through I'm not sure when the end date is on that, but we've got claims pending from sixty-one days to highest would be one hundred and fifty-eight days. The majority of the claims pending are in that sixty-one to seventy-five day range.

Rep. Nottestad: You spoke of the death claim as being one of the main concerns of those pending claims that you have, how many of those are death cases?

Forward: I don't know. I know that in 2005 there were thirteen death claims. Seven of those thirteen we were forced to make a decision after sixty days.

Rep. Nottestad: If death claims are the biggest problem, if there were an amendment made making it ninety days or one hundred and twenty days or one hundred and eighty days and sixty days for injuries, respond to that.

Rep. Forward: I am not sure on, on using the death claims as just an extreme example of one problem with the bill. I think WSI still opposes the bill on all claims as it applies. Where most of our numbers are in the higher range, are where people have conditions where you don't have a treating doctor responding quickly. Another big problem is the Veteran's Administration. People have prior medical records for treating with the VA on something, for whatever reason WSI and other medical insurers have a heck of a time getting medical records from the VA quickly so we are waiting on other people many times.

Rep. Keiser: Whatever date we put in, that puts WSI in the position to deny the claim?

Forward: That is correct. I asked some of our claims supervisors about this bill because they are the ones that deal with the nuts and bolts. One of them responded, "Many claims have reached the sixty day threshold or because inured workers have pre-existing conditions such as degenerative disc disease or have had a non-work related prior surgery. So still at day sixty we are pursuing priors and are pursuing clarification from their own doctors. If this bill passes we will be forced to deny the claim for lack of information which in turn will really make our customers angry and they aren't going to be getting the desired results and we will continue to be the bad guys." That comes from the people that do the claims work every day.

Rep. Amerman: Part of the reason that I got from Sen. Andrist was regardless of if you accept it or deny the worker, but then the bills would be paid. Because of this sixty days and time ran out and you denied a claim so then he can appeal, correct?

Forward: Correct.

Rep. Amerman: But once you deny this claim and there are these medical bills out there and he is getting these bills and nobody is paying them at this time, so when you deny this claim, does BCBS pick this up and then if he wins his appeal do you reimburse them?

Forward: I am not so sure that BCBS would hop on it that quickly. Their own internal processing would take a little bit of time.

Rep. Johnson: On one hand, the organization bares the burden of proving the loss and entitlement to benefits would the fact that you did receive the information be enough to be proving?

Forward: I am guessing not. By the time we can use that as a basis to say that the claim is not compensable and in other words, they haven't met their burden and don't have enough information to have met it. Then the burden would be flipped upon us and we would have to produce enough information, as a practical matter it might.

Rep. Keiser: What happens if the claimant whose claim has been extended? What type of communication is going on with these people from WSI?

Forward: The claims adjusters are talking to them and explaining to them what they are waiting on and who needs to get information to WSI, what specific point we are looking at. There have been situations where we I know have advised the claims adjuster to actually contact the treating physician's office or ask the injured worker to do that. We have told them to tell the doctor we are waiting for them to tell us that this is a work related injury, and we are not getting a response. There is communications between the claims adjuster and the injured worker.

Rep. Keiser: Is there anything that gets triggered? The sixty days that you make additional contact and apologize and say here the list of things we need, are we taking any specific action at some point?

Forward: Not the sixty days, but at twenty-eight days, the adjusters have internally processed a policy that they have what they call twenty-eight day contact. Every twenty-eight days they have to contact the injured worker and see how it is going and tell them what they are doing.

Rep. Keiser: At the second twenty-eight days, do you say, the reason I am calling you back is because this is what we are missing, not how are you?

Forward: We don't have a policy that they do that. I am assuming that they do that.

Bill Shalhoob, ND Chamber of Commerce, spoke in opposition to the bill. See written testimony.

Zaiser: We find that rather strange or interesting that you and I are on the same page here.

Shalhoob: I do agree with you, I don't think it has to be put into law; it's a matter of policy. The same way it's a policy at twenty-eight days you contact them.

Sandy Blunt, Executive Director and CEO of WSI, spoke in opposition to the bill.

Blunt: I strongly believe that aggressive injury claims is the right thing for all parties involved. I will tell you that we actively do watch these claims especially with the passage of 1171 last session. It is two years of wage replacement that is on the line, we have to get aggressive. So you do know, I receive a weekly report. Two separate, different reports, one is an aging report on every claim. Where is it from date we received it to how old is it? How many are sitting in the system, I receive that data I receive charts and I receive it by team and I receive it by adjuster. I also receive a sixty day report on a weekly basis from the chief of claims on what is sitting out there that is approaching or beyond sixty days. The first report tells me where it is and anything beyond sixty, why is it there and what is going on actively within this claim. We

are making contact with the injured worker and we are making contact with the medical community. We are actively working this claim. We don't want it sitting out there either. We also have a triage team and an active injury management team that we are jumping on them. There are tools, just like when your children were born there was an APCAR score, how they are measuring, did they cry, how were they moving, what is the color? We can do the same thing in our industry. We do know that certain claims based on the injury type based on how severe based on we can measure up front where is that going to go, so in the first twelve to fourteen days, we are on this claim and actively working to make sure that we have all of the facts. I can tell you we do measure it, we do monitor it. Our policies do require we make contact, forget the policy, the old adage what gets measured gets done and they all know that it is reported to me on a weekly basis where is this claim and why has it been there longer than sixty days.

Rep. Zaiser: I think given that aggressive management of claims, wouldn't it make sense to from a public relations standpoint at sixty days or set some day where like I has asked about, send out to the claimant, the reasons why it is taking more time than you anticipated?

Blunt: That is going on. We are not waiting for sixty. This is twenty-eight days. Also, forty-eight days is the benchmark. If you are arriving at forty-five, you better have a plan and it better had been out, what we will be doing in the very beginning with our new computer system to improve this, there will be a plan going out within the first couple of weeks with everything you can expect and update you on what is going on. Some of it may be in writing, some of it may be phone call. We do have to understand that not every one of our customers can read. Not every one of our customers, they all have a different need on contact, so the key we have is communicate to make sure they are fully aware. I don't disagree, we are one hundred percent

on the record here we just don't want to wait that long to give them notice, we want to make sure that we are much more aggressive on the timeline and providing notice.

Rep. Zaiser: Then if I am correct, there is a twenty-eight day letter that goes out, a communication shall I say and then at forty-five day, that is standard policy, correct?

Blunt: There is a twenty-eight day review, whether or not, we may have communicated already and there may be a communication shortly after that, we may have received a document so it's tough to say. Forty-five is simply an internal date. You want to know, after forty-five days, if you have a claim that don't have allowed or don't know where it is going that is a pretty big bench mark indicator. What's going on, we need to get more involved. It is an industry standard.

Rep. Zaiser: One of the problems that we all hear is the public relations issue that so many people are unhappy for one reason or another with the response of WSI. So wouldn't it be a good public relations measure to whether sixty days came up, and if it goes beyond a certain date, make sure you explain you are missing this MRI or whatever. Sorry, but we are doing our best. We need this information, is there any way you can help? Wouldn't that be a good tool to use?

Blunt: Yes, and that's why we are doing it. It won't require law to do that and I will frankly testify against the law because then every single policy we write has to be a law as opposed to a policy and they might not fit. I think there is times where the law is good and times law is not. To pass a law to direct that a letter be done personally I don't think it has to wait that long, we are not waiting that long. We are telling folks and engaging them for help. The important thing to remember is we average around two hundred to three hundred a year. We are talking about one to one and a half percent and all time, four hundred at the top end, I want to avoid overreaction and public relations, we are never going to win that battle. Let's just be honest.

This is an industry in the US, we are NEVER going to win the battle and we also have to temper that we do hear claims and this elsewhere. We are talking twenty-thousand new a year with an active load of tens and tens of thousands because we have claims from the forty's and the fifty's. You are talking tens and tens of thousands of active claims and if you hear from one hundred people, you have got to remember that is WELL under one half of one percent of all active claims and while important to those one hundred in the scope of the total volume of the picture, it is NOT a significant outcry.

Rep. Amerman: In Sen. Andrist's testimony he says before introducing this bill, I spent a great deal of time with WSI officials to craft a workable language with the guarantee of quicker response without tying the hands of the agency which does so many things well. It also says they could offer no suggestion that is better than this bill. Were you part of some of these conversations in trying to make the bill?

Blunt: Mr. Forward was involved. He would be the best person to ask a question. When the bill was being fashioned we said can we talk to you? The actual wording in the conversation, I could summarize but rather would have Mr. Forward to. Simply discussing with a legislator is not an endorsement of that we are still opposed to it.

Rep. Amerman: When this bill was drafted and when Sen. Andrist was talking to you and came up with this, did you tell him that you can't come up with anything better but that you won't support this bill? It wasn't like he talked to you and thought maybe you were onboard and then you opposed it, or did he know up front?

Forward: We were pretty clear. I had very amicable conversations with Sen. Andrist at least twice and there was no confusion on his part I don't believe that we were on board. Initially Sen. Andrist proposed language that would make us deny the claim after sixty days, an automatic denial, and we expressed to him how unfair that would be really to the injured

worker and how much we are already the bad guys. I didn't see this draft until they introduced it, where he flipped it so that instead of denying, it would be approved. Much of the conversations I had with him were specific to his constituent and how maybe we could use something called pre-acceptance benefits, it was kind of a brainstorming situation but to answer your question, Sen. Andrist knew we were not on board.

Tom Balzer, ND Motor Carriers Association, spoke in opposition to the bill.

Balzer: This bill kind of troubles me because I have to question why there is an inflow of support for this because there is an assumption of approval in here that may not happen. From a management standpoint, there would be some questions as to on day fifty-nine, we just deny it because they haven't reached that threshold of proof. I think from a PR perspective that could be one of the worst things that WSI could do. They haven't had a good year in the PR world so far and this would be another step that would take them down in that world. I also believe we would have unnecessary appeals. Employers in our industry want their injured workers to be taken care of and if the injured worker has to go in and look through the appeals process because all we had to do was wait for twelve more days to get a letter in from doctor so and so now they go through the appeals process again and get those people involved. Now we have made a mountain out of a mole hill. Yes, there are some claims that go long. I believe that WSI is doing a very good job of dealing with those because of the complicated nature, but I don't want us to complicate the problem anymore.

The hearing was closed.

Rep. Zaiser: The amendment basically changes it slightly, but adds after line 'approved' on line nine, 'unless the organization has sent the claimant a letter explaining the reasons they have not been able to make the determination on the claim'. The other little change I made is between the fifty-fifth and sixtieth day of the claim, simply putting into statute what the director

thought shouldn't be, but should be a policy. I just like to make sure that it does get done, so if it fits what they are doing, I don't see a problem.

Rep. Keiser: So the amendment would basically say that this bill would stand as it is except that if the organization sent out written or verbal communication as to what was holding the claim up.

Rep. Ruby: I don't know why we need the language. I agree that they are communicating far more than what we would put into statute and as far as the bill itself I think it is restricting. I think it is best if we allow them in some circumstances to get more information and the period of time it takes to make sure that they make the right decision for the benefit for the injured worker. As far as any language in there, if we just put language in talking about communication, I still think it is unnecessary and a waste of language in the code so I will resist the amendment.

Rep. Zaiser: The amendment, I was very impressed with Blunt's internal communications process and his logging and measuring success, but there still wasn't a clear definition of how they communicated with the public. Granted they are never going to win the PR wars, you have got to do the best you can to keep it from erupting and I think this would go a long way. In terms of the days, this creates that exception, it just explains why they need more time because they want to give them a fair shot at getting approved. My situation, mine wouldn't basically, I couldn't do mine in sixty days, I know they have to take a lot longer because of the complications. I would support that. This just points it out and allows them to do that and explains to the claimant and I think it's a good PR.

Rep. Keiser re-reads the amendment proposed by Rep. Zaiser.

Rep. Amerman: I would like to see something in printing and second of all, I would like to show it to Sen. Andrist and I would like to talk to him before we act on this bill.

Rep. Keiser: By putting that amendment in this bill, you make the rest of the bill meaningless. They are already going to tell us that they are doing that. Or hog house this bill that puts an amendment that says what the policy for communicating is if you want.

Rep. Amerman: Thank you Mr. Chairman.

There was no further discussion. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2342

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 7, 2007

Recorder Job Number: 4576

Committee Clerk Signature	Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on SB 2342, relating to timely processing of workers compensation claims. This bill simply would say that WSI does not take action. Once a claim is submitted, if they do not take action within 60 days of the original entry, or 6 months following the death and the claim is still pending on the 61st day, or on the 6 month 1 day, then the claim is deemed to be approved no ends, ifs, or buts about it. It's automatically accepted. If overpayment under this section, WSI cannot recover it unless WSI proves fraud, and the claimant may not receive benefits if they're not cooperating in that attempt to get this claim acted on.

Rep. Ruby: If our intent were to limit the number of claims, we would put this at 30 days, because that's what it would do, and I think that at the 60 day level, we still would reduce, or limit claims that leave a little bit more time. Once they get all their information slightly over, then what they do now is they'll wait until they have everything to make a decision. I thought this piece was restricted in a way that was going to hurt the claimants. I'm just going to move a do not pass.

Rep. Vigesaa: Second.

Rep. Zaiser: I had an amendment drafted. We did discuss it somewhat, and what I wanted to do was that notification between the 55th and 60th day, and I know there was some talk that every 28 days they do it, but that was internal. My concern was that there would be notification to the claimant, and that internal process didn't necessarily go out to the claimant. So, my amendment would call to notify the claimant of approval, and if they don't have approval, then they have to stipulate the reasons. It just puts the responsibility in the hands of WSI, to simply say this is why we didn't approve it. It doesn't say that they have to approve it.

Rep. Amerman: If I remember correctly, did WSI testify neutral?

Rep. Kasper: Against.

Rep. Ruby: I rescind my motion.

Rep. Vigesaa: I rescind my second.

Rep. Zaiser: I move the amendment.

Rep. Ruby: If I understand the intent of that notification, and I think notification is important, I remember the discussion about this, and what they're doing now is more than what this specifies. This bill would do absolutely nothing, because they are already notifying on a much more aggressive basis than what this calls for, so if we put this amendment on, the bill really becomes as meaningless more than what it's saying now.

Rep. Zaiser: If we have a different director, I had shown some admiration for his internal process. That is an internal policy that when we want something about legislation that we think should stay there, we put it into statute. I think this is one little thing for the claimant, so they can get a reason why they've been turned down.

Rep. Johnson: From what we heard in testimony, they make contact by the 28th day, and then the 55th day. What if they were to send something on the 53rd day, but not between the 55th and 60th? Then they're out of compliance with this.

Rep. Zaiser: I would think that would be easily internally to fit into this.

Rep. Keiser: The bottom line right now is the words between the 55th and 60th day, so it would be quite redundant.

Rep. Zaiser: I like this. I don't see why they can't adjust internal policy.

Rep. Keiser: Rep. Johnson's point was that we if we sent one on the 53rd day, had contact and everything else, by law we'd have to come back and do it again.

Rep. Thorpe: I think this is probably driving the WSI in the right direction here. I will certainly support the amendment.

Rep. Thorpe: Second.

Rep. Keiser: The one thing I ask the committee members to think about is they are highly motivated to document the rate at which they're handling claims. The testimony is that less then 2% go 60 days. It seems to me they're doing everything they can pretty much here, if that's the case.

Rep. Johnson: I think from what I heard in testimony that 2%, most of it is basically trying to get reports from physicians and information to them.

Roll call vote was taken, motion fails. 5 Yeas, 9 Nays, 0 Absent

Rep. Ruby: I move a do not pass.

Rep. Vigesaa: Second.

Rep. Boe: There are a lot of federal programs, where if they overpay you, they've only got so many days in order to notify you that there is overpayment, or they forgo any repayment.

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

Hearing closed.

PROPOSED AMENDMENTS TO SB 2342

Page 1, line 9, after "approved" insert "unless the organization has communicated orally or sent the claimant a letter, between the fifty-fifth and sixtieth day after the date the claim was submitted, explaining the reasons they have been unable to make a determination on the claim"

Renumber accordingly

Date: 3-7-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2342

House **Industry Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Move Amendment

Motion Made By Rep Zaiser Seconded By Rep. Thorpe

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 5 No 9

Absent 0

Floor Assignment Rep. Ruby

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

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2342

House **Industry Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO NOT PASS

Motion Made By Rep Ruby Seconded By Rep Vigesaa

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. Ruby

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

REPORT OF STANDING COMMITTEE

SB 2342: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2342 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2342

RE: SB 2342
TO: Members Senate IBL Committee February 6, 2007, 9:30 a.m.
FROM: Sen. John Andrist, District 2

I introduced this legislation in the hope that Workforce Safety would embrace it. Back in the mid-90s when we were crafting so much WSI reform legislation, the agency impressed on us over and over again in one bill after another that the key to good results following injury is early intervention.

So we shortened the timeframe for workers to notify the bureau when they were injured. But we did nothing to shorten the time frame for WSI to respond.

I am motivated by the case of a man from my home district who was injured last June and has been hanging in limbo ever since, awaiting a final determination of whether his claim will be accepted, But I have heard from a number of others complaining that the agency -- which really does marvelous work after they have accepted a claim -- is just too indecisive and bogged down in making that initial assessment.

I accept the explanation of the agency that some cases are very, very complicated. But I ask you, if you were incapacitated for any reason would you accept an eight-month wait for your insurance company to decide if they would accept your claim?

Before introducing this bill, I spent a great deal of time with WSI officials to craft language which would hold WSI's feet to the fire and still not tie the hands of the agency, which does so many things so well. They could offer no suggestion that is better than this bill.

If this bill passes, WSI is not precluded from simply rejecting unresolved claims after day 58 arrives, thus forcing an appeal and giving them as much time as they choose to pigeonhole a claim

But if they should make such a practice pervasive, subsequent legislative sessions could better evaluate whether they are being faithful to their mission. So in that sense they still would have a clear directive of legislative intent that they ought to be doing better on their diagnosis determinations.

It won't help my constituent, who continues to wait, and wait, and wait -- a truck driver who lives with great pain just from a 100-mile ride in an automobile that has to be driven by somebody else. But they would have done him a big favor by quickly denying the claim, rather than drag it on and on.

Please give this bill a do pass. It can do no harm. And it has the potential to make WSI an even better, more responsive agency.

#1
2342

2007 Senate Bill No. 2342
Testimony before the Senate Industry, Business, and Labor Committee
Rob Forward, Staff Attorney
Workforce Safety and Insurance
February 6, 2007

Same to House

Good morning, Mr. Chairman and Members of the Committee:

My name is Rob Forward and I am a staff attorney for Workforce Safety and Insurance (WSI). On behalf of WSI and its Board of Directors, I am here to testify in opposition to SB 2342 which would give pending workers' compensation claims an accepted status if WSI does not accept or deny a claim within sixty days of the claim's filing. While WSI's Board of Directors is supportive of the spirit and intent of the bill to limit the time that an injured worker must wait for benefits, the practical effect of the bill would be negative for injured workers and their relationship with WSI.

Under SB 2342, claims adjusters would be required to make a decision on complicated claims without the benefit of having received all of the relevant information. Without all of this information available, it would be impractical for the adjuster to automatically default to a position of deciding in favor of the injured worker. Consequently, there is a concern that WSI would be forced into a position of denying a pending claim at sixty days for lack of information.

There are less than two percent of all claims that require a decision to be made in more than sixty days. The primary reason a claim's status remains undetermined after sixty days is because the adjuster is waiting for prior medical records and/or clarification from a treating doctor(s). This is especially so with ailments like degenerative disc disease, carpal tunnel syndrome, and other conditions that often pre-exist and intertwine with a complicated work injury. It is very important to note, that in these limited circumstances the adjuster is not neglecting the claim; instead, they are assuring they have gathered all of the necessary and important facts in order to make the most appropriate decision. Unfortunately, due to the extenuating circumstances in these claims, they often take more time than everyone would like. However, both WSI and the injured worker are usually in a position where neither is capable of hurrying the third party's internal processes.

On its face, the concept of mandating a decision within a certain time period seems straightforward and beneficial for injured workers. Unfortunately, in the end, we fear that the law would have the unintended affect of placing WSI and its customer at odds and pushing up the agency's denial rate. Therefore, WSI asks that you give SB 2342 a "do not pass" recommendation. I'd be happy to answer any of your questions.

#2
2342

#1

RE: SB 2342
TO: Members House IBL Committee
FROM: Sen. John Andrist, District 2

I come to you as one who has been a consistent WSI supporter in my eight sessions here, one who helped pass the reforms necessary to bring solvency to the agency in the 1990s and one who has resisted knee jerk change proposals throughout the past few sessions that in my opinion would have weakened the agency.

And I introduced this legislation in the hope that Workforce Safety would embrace it. Back in the mid-90s when we were crafting so much WSI reform legislation, the agency impressed on us over and over again in one bill after another that the key to good results following injury is early intervention.

So we shortened the time frame for workers to notify the bureau when they were injured. But we did nothing to shorten the time frame for WSI to respond.

I am motivated by the case of a man from my home district who was injured last June and left hanging in limbo for seven months awaiting the WSI decision on whether his claim would be accepted. But I have heard from others complaining that the agency -- which really does marvelous work after they have accepted a claim -- is just too indecisive and bogged down in making that initial assessment.

I accept the explanation of the agency that some cases are very, very complicated. But I ask you, if you were incapacitated for any reason would you accept an eight month wait for your insurance company to decide if they would accept your claim?

Before introducing this bill I spent a great deal of time with WSI officials to craft workable language which would guarantee the quickest response without tieing the hands of the agency, which does so many things so well. They could offer no suggestion that is better than this bill.

If this bill passes WSI is not precluded from simply rejecting unresolved claims after day 58 arrives, thus forcing an appeal and giving them as much time as they choose to pigeon hole a claim. But I would hope they make no such practice.

The constituent in my district would have been so much better served if WSI had just said "no" and stuck to it when he first asked for assistance, so he could proceed to work with his health insurer and seek other options. Today he is simply a disabled truck driver who lives with great pain, hoping to find solutions that will someday get him back to work -- but which because of the long delay may never be able to make that happen.

Please give this bill a do pass. It can do no harm. And it has the potential to make WSI an even better, more responsive agency.

#3

NORTH DAKOTA
CHAMBER of COMMERCE

Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
SB 2342
February 28, 2007

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographic cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also specifically representing sixteen local chambers with a total membership of 7,236 and eleven employer associations. A list of the specific members was attached to my testimony on SB 2342. As a group we stand in opposition to SB 2342 and urge a do not pass vote from the committee on this bill.

We could support a date certain for a claims decision if the process did not involve the input of parties outside of the agency. WSI must wait for doctors, hospitals, clinics, therapists or labs to schedule appointments, make their analysis and forward reports. This happens in less than two percent of all claims and is beyond the control of WSI. While meaning well the bill may have the unintended consequence of denying every claim as it approaches the arbitrary deadline and creating the necessity of needlessly starting an appeals process.

2000 Schafer Street PO Box 2639 Bismarck, ND 58502 Toll-Free: 800-382-1405 Local: 701-222-0929 Fax: 701-222-1611
Web site: www.ndchamber.com E-mail: ndchamber@ndchamber.com

Thank you for the opportunity to appear before you today in opposition to SB 2342.

I would be happy to answer any questions.

Feb. 28, 2007

Compliments of
North Dakota AFL-CIO

WSI Operating Report

As of the Quarter Ending: September 30, 2006

Workforce Safety & Insurance
To us, it's personal.

1600 E Century Ave Ste 1
PO Box 5585
Bismarck ND 58506-5585
(701) 328-3800 1-800-777-5033

www.WorkforceSafety.com

Key Performance Indicators

FY 07 YTD numbers are as of September 30, 2006 unless stated otherwise

Color Code = positive condition, watch condition, neutral

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection	Target*
Injury & Medical Services						
Total Claims Filed	19,184	19,887	21,588	5,514	*20,950*	*NA*
Indemnity Claims Filed	2,462	2,426	2,320	497	*1,988*	*NA*
Claims Filed/100 Covered Workers[1] - # of new claims filed divided by the covered workforce	6.30	6.38	6.78	*NA*	*NA*	*NA*
Indemnity Clams Filed/100 Covered Workers[1] - # of new indemnity claims filed divided by the covered workforce	0.81	0.78	0.72	*NA*	*NA*	*NA*
On-Line Claims as Percent of Total Claims Filed - % of claims filed that were received on-line	17%	22%	42%	42%	*NA*	75%
Auto-Adjudicated Claims as Percent of Total Claims Filed - % of claims filed that were processed through auto-adjudication	28%	26%	25%	28%	*NA*	35%
Percent of Claims Adjudicated w/in 14 Days - % of claims where the initial determination of compensability was made w/in 14 days of the registration date						
-Indemnity Claims	64%	64%	54%	45%	*NA*	
-Medical Only Claims	77%	73%	64%	58%	*NA*	
-All Claims	75%	72%	63%	57%	*NA*	90%
Percent of Three Point Contacts Made w/in 24 hours - % of three point contacts made within 24 hours from the date assigned to an adjuster	74%	91%	91%	89%	*NA*	98%
Initial Acceptance Rate - % of claims filed that are initially accepted	93%	91%	86%	84%	*NA*	*NA*
Percent of Initial Indemnity Payments Made w/in 14 Days - % of claims where the initial indemnity payment was made w/in 14 days of registration	60%	66%	62%	57%	*NA*	70%
Percent of Permanent Partial Impairment (PPI) Award Payments Made w/in 14 Days - % of claims where the initial indemnity payment was made w/in 14 days of when the PPI Auditor receives the evaluation	*New Measure will be added as a result of the recent Performance Evaluation conducted by Octagon*					
Claims Pending Over 31 Days[2] - number of claims in pending status longer than 31 days	44	62	104	143	*NA*	29
Average New Claims per Claim Adjuster[2] - average number of new claims assigned per year	479	496	554	141	*537*	*NA*
Average Active Claims per Claim Adjuster[2] - excludes auto-adjudicated claims						
- Average active indemnity claims[3]	41	39	64	70	*NA*	*NA*
- Average active medical only claims	144	169	200	198	*NA*	*NA*
- Average active claims (all)	185	208	264	268	*NA*	*NA*
Average Active Auto-Adjudicated Claims per Adjuster[2] - auto-adjudication is a claims process by which claims pass through a series of edits	56	49	44	48	*NA*	*NA*
Number of Claims Declared Permanently Totally Disabled (PTD)[2] - the number of newly declared PTD claims	*New Measure will be added as a result of the recent Performance Evaluation conducted by Octagon*					

*1 - "Covered Workforce" is an **estimate** based on Job Service ND data (ES-202 Report)*
2 - Snapshot taken as of Quarter End or Fiscal Year End
3 - Starting in January 2006 Indemnity case counts include PTD claims

** Industry averages or standards related to workers' compensation are difficult to obtain as there exist differences between programs and their corresponding laws from state to state. Consequently, targets are reflected as ultimate goals in many cases , rather than as an industry average or standard.*

Key Performance Indicators

FY 07 YTD numbers are as of September 30, 2006 unless stated otherwise

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection	Target*
Percent of Preferred Worker Program Participants Who Have Found Employment[4] - % of injured workers enrolled in the PWP during the fiscal year who have found employment	40%	60%	43%	19%	*NA*	75%
Percent of Bills Received Electronically [5] - bills received electronically as a % of total bills received	28%	21%	16%	20%	*NA*	75%
Percent of Outstanding Bills Over 30 Days Old[1] - % of bills, entered but not paid, that are > 30 days from the date entered	5%	4%	29%	6%	*NA*	2%
Days to Adjudicate Medical Bills Percentage of Medical Bills paid within X days of receipt of bill.						
-within 21 days	79%	86%	57%	82%	*NA*	90%
-within 31 days	94%	95%	67%	96%	*NA*	95%
Employer Services						
Lag Time to Report Injuries[2] Percentage of Claims Reported within X day(s) of date of injury						
-within 1 day	6%	10%	40%	45%	*NA*	TBD
-within 7 days	53%	58%	73%	77%	*NA*	TBD
-within 14 days	72%	75%	83%	85%	*NA*	TBD
-within 21 days	79%	84%	88%	89%	*NA*	TBD
-within 31 days	84%	89%	91%	92%	*NA*	TBD
Total Active Employer Accounts[1] - total number of active employer accounts at the end of the fiscal year	19,672	19,586	19,756	19,715	*NA*	*NA*
Number of Audits Completed (includes phone audits) - number of premium audits completed by the premium auditors	1,792	1,771	1,730	348	*1,392*	*NA*
Delinquent Premium as Percent of In Force Premium[1] - total delinquent premium divided by in force premium	1.91%	2.12%	1.32%	1.46%	*NA*	2%
Total Delinquent Premium - Accts in Active Collections[1,6] - amount of premium, interest and penalties owed by all accounts in collections	$1,977,869	$2,100,500	$1,774,392	$1,947,609	*NA*	*NA*
Total Delinquent Premium - Accts Not Making Payments[1,3,6] - amount of premium, interest and penalties owed by accounts in collections not making payments	———	$1,293,591	$1,232,653	$1,453,015	*NA*	*NA*
Legal/SIU						
Legal Orders Issued - number of legal orders issued on claims during the fiscal year *(excludes PPIs)*	1,073	1,303	1,486	326	*1,304*	*NA*
Hearings Requested - number of hearings requested during the fiscal year *(1st level litigation - does not include district or supreme court cases)*	170	224	209	46	*184*	*NA*
Hearings Held - number of hearings held during the fiscal year	92	103	79	26	*104*	*NA*
Claimant Attorney Fees and Costs - total fees and costs paid to claimant attorneys	$224,092	$163,906	$157,591	$66,751	*$267,000*	*NA*
Office of Administrative Hearings (OAH) - total fees and costs paid to WSI outside counsel *(defense counsel)*	$305,398	$405,227	$402,011	$191,516	*$766,064*	*NA*

1 - Snapshot taken as of Quarter End or Fiscal Year End
2 - Improvement in lag time may be attributed to new incentive for early reporting implemented August 2005.
3 - Accounts assigned to collections in August 2006 or earlier and that did not make a payment in September 2006.
4 - January 2005 the wage reimbursement benefit was added to the Preferred Worker Program.
5 - Excludes pharmacy starting in FY2005 and switched to PCACE in January 2005
6 - First quarter FY07 , the number of accts in collections rose from 368 to 441 creating the increase in the amount of total delinquent premium balance.

Key Performance Indicators

FY 07 YTD numbers are as of September 30, 2006 unless stated otherwise

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection	Target*
WSI Counsel Fees and Costs - total fees and costs paid to WSI outside counsel *(defense counsel)*	$609,914	$662,625	$588,836	$161,152	*$644,610*	*NA*
Avg Days Hearing Request to Final Order (all orders)[1] - avg number of days from hearing request to issuance of final order regardless of resolution *(hearing, misc, stipulation, etc.)*	274	212	244	236	*NA*	160
Avg Days Hearing Request to Final Order (hearings only)[1] - avg number of days from hearing request to issuance of final order	291	249	269	292	*NA*	*included in stat above*
Office of Administrative Hearings (OAH) Avg Processing Days - avg number of days cases are in the hands of OAH	172	149	174	160	*NA*	110
Total Claim/Risk Field Investigation Costs [2] - dollar amount paid for field investigations	*NA*	$67,042	$274,350	$76,477	*$305,910*	*NA*
Total SIU Investigation Costs [2] - dollar amount paid to outside private investigators on all SIU cases	$987,137	$93,274	$70,165	$10,096	*$40,385*	*NA*
Total SIU Budget [2] - *dollars spent on salaries and benefits of WSI investigators*	$312,195	$175,724	$336,578	$91,272	*$365,088*	*NA*
Total Restitution [2] - dollar amount recovered by WSI on overpayments that were set up	*NA*	$18,908	$216,635	$49,760	*NA*	*NA*
Total Savings[2, 4] - total estimated savings on SIU cases during the year	*NA*	$1,180,699	$1,420,115	$147,671	*NA*	*NA*
SIU Return on Investment[2, 4] - total savings and restitution / SIU vendor costs and budget	*NA*	$4.46	$4.03	$1.95	*NA*	$5.00
SIU Referrals by Type[2] - total SIU cases by type						
-Injured Worker	*NA*	10	53	14	*NA*	*NA*
-Employer	*NA*	1	25	10	*NA*	*NA*
-Provider	*NA*	1	7	4	*NA*	*NA*
-Claim/Risk Reviews [3]	*NA*	27	72	49	*NA*	*NA*
Support Services						
Turnover Rate - All WSI Employees[5, 6] - employee separation/total employees *(2006 Industry avg = 12.7%)*	6.6%	8.2%	12.2%	3.7%	*NA*	*NA*
Absenteeism Rate - All WSI Employees - total sick leave hours/total work hours	3.5%	3.0%	2.9%	2.8%	*NA*	*NA*
Average System Availability/Accessibility During Core Business Hours - average percent of time the WSI computer systems were accessible to WSI employees *(between 7:00 a.m. and 6:00 p.m.)*	99.97%	99.90%	99.47%	99.21%	*NA*	99.99%
Total Documents Indexed - total number of documents indexed in the imaging system during the year	996,545	1,053,233	991,307	241,978	*967,900*	*NA*

1 - FY 2006 includes 5,974 days for cases held in abayance - if those cases are removed from the calculation the average days for hearings is 238, and 195 days for all final orders
2 - For FY 05 the SIU stats were revised in January 2005, the numbers reflected are only for January2005 - June 2005. These figures were updated to reflect corrected data 6/30/06
3 - Claim/Field investigations that SIU staff worked instead of outsourcing to private investigators - results in a cost savings for WSI
4 - Cost savings figure have been adjusted to reflect savings on compensability claims which were denied due to investigation
5 - Turnover rate does not include temporary employees.
6 - FY2006 Turnover calculation includes 5 ERI terminations, turnover without the ERIs turnover is 9.9%.

Key Performance Indicators

FY 07 YTD numbers are as of September 30, 2006 unless stated otherwise

Finance

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection	Target*
(A) Net Earned Premium *(FY07 is as of August 31, 2006)*	$96,780,029	$103,663,434	$90,395,164	$13,460,407	*$76,720,000*	*NA*
(B) Paid Losses	$85,591,828	$88,507,071	$82,676,411	$22,351,190	*$89,404,750*	*NA*
(C) Covered Workforce [1]	304,287	311,200	318,240	*NA*	*321,100*	*NA*
(D) Administrative and ULAE Costs *(FY07 is as of August 31, 2006)*	$15,371,709	$16,708,683	$17,357,246	$2,813,097	*$18,240,000*	*NA*
(E) FTE Authority	228	223	223	223	*223*	*NA*
(F) Claims with Activity[2]	31,466	31,565	34,021	16,402	*33,050*	*NA*
Premium Cost per Covered Worker[1] - the actual amount of premiums paid, net of any dividends, divided by the covered workforce - *(earned prem/covered workforce - A/C)*	$318	$305	$270	*NA*	*$284*	*NA*
Paid Claim Costs per Covered Worker[1] - the total cost of all claims divided by the covered workforce *(indem paid + med paid + allocated paid/covered workforce - B/C)*	$281	$284	$260	*NA*	*$260*	*NA*
Administrative Cost per FTE - the total administrative costs divided by the number of FTE authorized by the legislature. *(admin costs/FTE authority - D/E)*	$67,420	$74,926	$69,224	$12,614	*$75,895*	*NA*
Administrative Cost per Claim[2] - the total administrative costs divided by the number of claims with activity - *(D/F)*	$489	$529	$454	$171	*$552*	*NA*
Return on Investment - The gain on funds invested. *(investment returns)*	9.62%	7.29%	3.45%	2.76%	NA	5.75%

*1 - Covered Workforce is an **estimate** based on Job Service ND employment and wages data (ES-202 Report)*
2 - Activity = a new claim filing, making payment on a claim, or receiving a new application for benefits under an existing claim.

Paid Cost Data

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection	% Change 06 to 07
Indemnity Benefits Paid	$35,610,107	$36,896,271	$37,001,323	$8,469,269	$33,877,075	(10%)
Medical Benefits Paid	$45,668,191	$47,779,396	$42,390,108	$12,814,451	$51,257,800	20%
ALAE (all non-legal) Paid	$3,034,578	$2,403,998	$1,945,212	$609,673	$2,438,690	25%
ALAE (legal) Paid	$1,278,951	$1,427,406	$1,339,768	$457,796	$1,831,185	37%
Total Paid Costs	$85,591,828	$88,507,071	$82,676,411	$22,351,190	$89,404,750	8%

FY07 YTD paid cost figures partially reflect the catch-up on the medical bill backlog that we experienced in FY06.

Customer Satisfaction

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD
Employer Satisfaction - mail survey conducted by DH Research in April and October each year - based on a scale of 1-5	4.21	4.20	4.21	NA
Injured Worker Satisfaction - phone survey conducted quarterly by DH Research - based on a scale of 1-5	4.38	4.35	4.38	NA
Medical Provider Satisfaction - on-line/mail survey conducted by WSI - based on a scale of 1-5	____	____	3.83	NA

Key Performance Indicators

FY 07 numbers are as of September 30, 2006 unless stated otherwise

Financials

Statement of Financial Position

FY 07 YTD numbers provided are through August 31, 2006

Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection
Cash & Investments	$1,356,461,524	$1,496,258,848	$1,528,838,195	$1,556,218,159	$1,597,945,836
Premium Receivable	$18,887,646	$22,139,106	$17,005,176	$23,686,103	$17,000,000
Building & Other	$12,130,108	$11,944,008	$11,588,164	$11,514,396	$11,400,000
Total Assets	$1,387,479,278	$1,530,341,962	$1,557,431,535	$1,591,418,658	$1,626,345,836
Accounts Payable	$278,658,037	$329,246,793	$330,038,790	$329,762,152	$353,500,000
Unearned Premium	$45,969,560	$51,544,952	$39,276,908	$43,473,154	$41,500,000
Unpaid Loss & LAE (discounted at 5%)	$659,200,000	$680,400,000	$686,800,000	$688,933,334	$699,600,000
Total Liabilities	$983,827,597	$1,061,191,745	$1,056,115,699	$1,062,168,640	$1,094,600,000
Net Assets	$403,651,681	$469,150,217	$501,315,836	$529,250,018	$531,745,836
Total Liabilities & Net Assets	$1,387,479,278	$1,530,341,962	$1,557,431,535	$1,591,418,656	$1,626,345,836

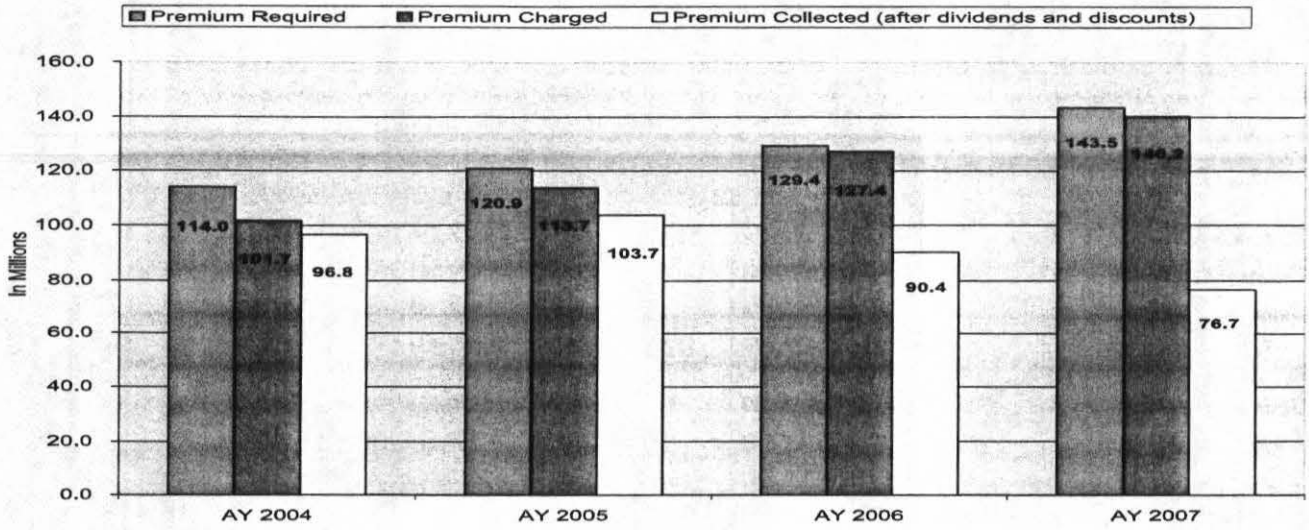
Statement of Activities

FY 07 YTD numbers provided are through August 31, 2006

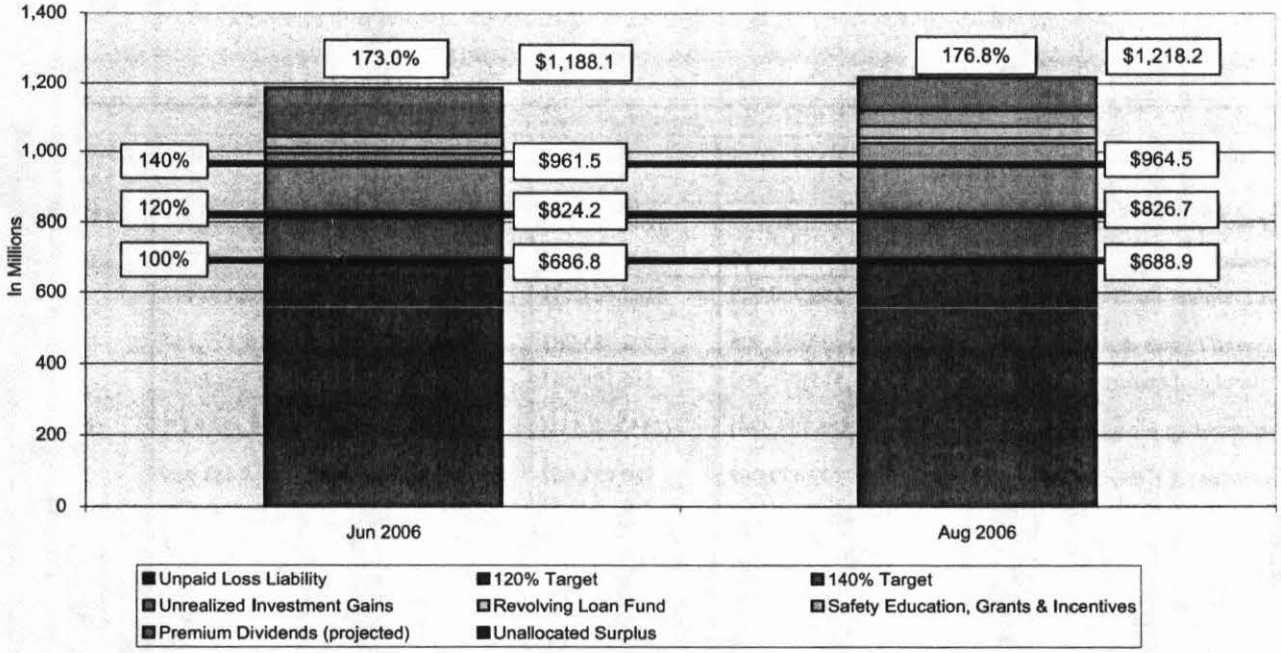
Fiscal Year Ending:	FY 04	FY 05	FY 06	FY 07 YTD	FY 07 Projection
Earned Premium	$96,780,029	$108,360,903	$121,589,673	$22,562,675	$132,160,000
Premium Dividends	$0	($4,697,469)	($31,194,509)	($9,102,568)	($55,440,000)
Net Premium Earned (after dividends)	$96,780,029	$103,663,434	$90,395,164	$13,460,407	$76,720,000
Incurred Losses & ALAE	$107,631,905	$102,385,282	$82,972,784	$17,177,147	$98,450,000
General & Administrative Expenses	$15,371,709	$16,708,683	$17,357,246	$2,813,097	$18,240,000
Underwriting Income (Loss)	($26,223,585)	($15,430,531)	($9,934,866)	($6,529,837)	($39,970,000)
Investment & Other Income	$92,479,067	$80,929,067	$42,100,484	$34,464,019	$70,400,000
Change in Net Assets	$66,255,482	$65,498,536	$32,165,618	$27,934,182	$30,430,000
Combined Ratio (fiscal year)	127.10%	114.89%	110.99%	148.51%	152.10%

Fiscal Year 04 has been restated to reflect a 5% discount on liabilities.

Premium Needed vs. Premium Charged

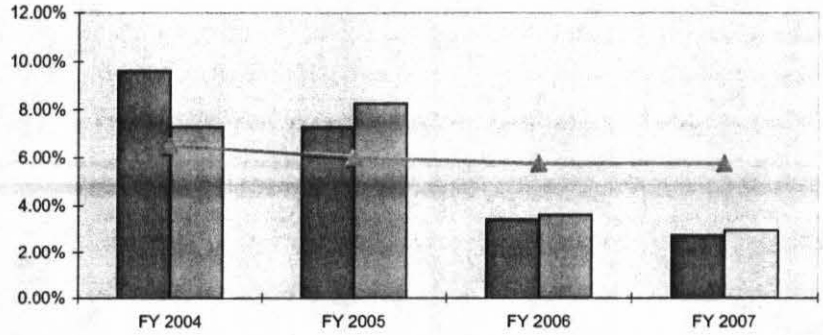


Fund Surplus Allocation



Investment data provided as of August 31, 2006

Annual Rates of Return

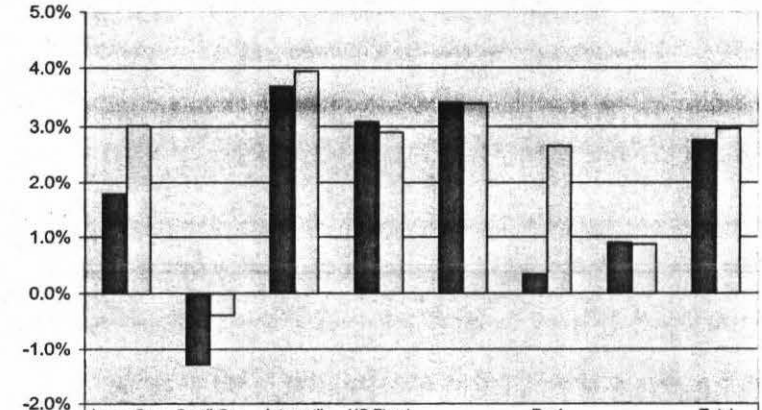


Annual Performance	FY 2004	FY 2005	FY 2006	FY 2007
WSI Actual Return	9.62%	7.29%	3.45%	2.76%
Composite Index Return	7.29%	8.26%	3.63%	2.96%
WSI Portfolio Target	6.50%	6.00%	5.75%	5.75%

FY 2006 Annual Returns by Asset Class

Asset Class
Large Cap US Equity Index
Small Cap US Equity Index
International Equity
US Fixed Income
TIPS
Real Estate
Cash

Index
S & P 500
Russell 2000
MSCI EAFE 50% Hedged
Lehman Aggregate
Lehman US TIPS
NCREIF
90-day US Treasury Bill



	Large Cap US Equity	Small Cap US Equity	Internat'l Equity	US Fixed Income	TIPS	Real Estate	Cash	Total Fund
■ FY 2007	1.79%	-1.29%	3.68%	3.08%	3.41%	0.34%	0.90%	2.76%
□ Asset Class Index Return	3.01%	-0.39%	3.94%	2.90%	3.39%	2.66%	0.87%	2.96%

Investment Asset Allocation