

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1151

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1151

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7695

Committee Clerk Signature

*Ellen Letang*

**Chairman Keiser: Opened the hearing on HB relates to the definition of wages, information fund, confidentiality of employer files; penalties applies to medical expense assessments for WSI purposes & repeal rules for mine foremen.**

Anne Jorgenson Green~Staff Attorney for WSI. See testimony attachment.

Vice Chairman Kasper: On section three, this has effectiveness on the programs?

Green: Yes.

Chairman Keiser: Currently, employers are treated like claimants.

Green: Absolutely correct.

Representative Ruby: Do you require the business before they receive the funds to come up with some way to measure results before hand?

Green: There is built into all our granting programs a series of reporting. Most is annual.

Representative Amerman: On section three, subsection two, the state or organization, counties pay the organization the premiums of WSI. Not only association but counties where there is public records people elect and all others be confidential?

Green: This bill speaks only to the documents associated with the worker's compensation file.

I can't speak for public documents that might arise in some other concepts in worker's comp

category in accounting. The subsection of the bill excludes data that is specifically associated with the receipts of grant dollars of WSI.

Representative Amerman: Removing the penalty on the last page, if they don't in 14 days and the penalty is \$350. We want to incentivize people to get to the doctor sooner.

Green: Yes, under current law.

Representative Amerman: In the penalty situation, employer reports it soon enough, then the organization takes care of the \$250 and if they don't, they get deemed \$350. That's what we are removing?

Green: That correct.

Representative Amerman: What happens to an employee and it didn't bother me until sometime down the road, would I be late then?

Green: Decisions are based on the facts but this piece of legislation will not (inaudible).

Vice Chairman Kasper: Going be to section three, lines 17-20, where you have your amendment, there was suppose to have data collected on the effective or non effectiveness of the safety grant programs. Doe this bill or any other bill we seen require WSI to compile data?

Green: The requirement to build data, if I'm understanding you question correctly, is at this point not statutorily derived but rather is built into the program themselves.

Vice Chairman Kasper: What I'm getting at is you can gather the data, crunch the numbers, but who gets to see the numbers?

Green: There is no one to give to.

Vice Chairman Kasper: Would WSI object to a requirement of this bill that the data on the grant programs and be reported to the Legislative Council on a biannual bases.

Green: I can't speak for the board of directors, but I can take that suggestion back to them.

Chairman Keiser: I strongly support the reporting but my heartburn over the elimination of the \$350 penalty. Our argument was we want early reporting and we incentivized that and now you are telling me that there are a variety of reason to employ the 14 days. Why are we letting them off the hook? I want them to report right now. Why are we letting them go so long? What are good reasons?

Green: You have identified the benefit of the waiver of \$250 has gone up. The waiver of the \$250 has been an enormous incentive to report that injury within 24 hours of occurrence. Our experience over the last two years is that the situations which the \$350 has been set, has been close calls. With an injury but needs time, but down the road, you have a situation that has gone over the 14 days. The other is an accumulative injury like carpal tunnel.

Chairman Keiser: My argument is, I don't care when they get the treatment, I want it reported so we can take the intervention. Let's get them there and treat it at the front end of the injury might be adequate to prevent further injury.

Representative Ruby: I was thinking that this could be remedied by some language in that when the employer is told about it and then it would be reported.

Green: The employer is usually the last one to know. You don't need additional language, it already present in the current state of the law.

Chairman Keiser: The employer is responsible for the creating a safety culture. That comes from the top. Why are we giving employers that won't take responsibility, why would we take away a penalty?

Representative N Johnson: With this change they report, within the first 24 hours, the \$250 is waived? If they don't report, they do pay the \$250 but that would go on forever.

Green: That is correct.

Chairman Keiser: Current law, at 14 days it goes up to \$350.

Bruce Furness~Director of WSI. I wanted to address Vice Chairman Kasper's concern, certainly the people paying those bill should have that knowledge. We think that would be positive.

Vice Chairman Kasper: You would support an amendment that would require that reporting in the bill?

Furness: Yes.

Sylvan Loegering~North Dakota Injured worker Support Group. I'm in the support of the bill as it is written. I recommend not delete on page four, lines 2-5. That's my personal thought.

Chuck Clairmont~Executive Director of the North Dakota Safety Council. We do support section five.

Anyone in opposition of HB 1151, neutral?

Dave Kemmets~President of AFL-CIO. I have no problems with the HB 1151. See testimony attachment.

Vice Chairman Kasper: My intent is not how they are being spent, but how they are promoting safety.

Kemmets: I totally agree, one thing that has changed is the stance the bureau in the area of training.

Sebald Vetter: C.A.R.E. I don't know which way to go, but Chairman Keiser made a good point, you report it right away, you eliminate a lot of problems.

Vice Chairman Kasper: Bruce Furness, getting back to the safety grant program, it appears that WSI did not have enough people to inspect the request for safety grants? Has that changed at all?

Furness: Yes it has. We changed the whole program.

Vice Chairman Kasper: With the consultants, the role WSI play in the grant application, is it now your employee encouraging employer to apply for safety grant?

Furness: That's correct, but don't write the grant.

Representative Amerman: What is work life?

Furness: Nothing I'm familiar with.

Chairman Keiser: Has the agency attempted to contact the entities that received grant in the past and asked permission to publish results?

Furness: In some cases, yes. Individual accounts not as much. We want it open and transparent.

Representative Nottestad: Move amendment remove overstrike page four, lines 1-5.

Representative Amerman: Second.

Representative N Johnson: This is 14 days from the time that the employee notified the employer that the injury occurred. So that the employer doesn't report within 14 days the penalty applies. The injury could happen three month ago.

Chairman Keiser: Yes.

All in favor of the amendment say aye. All aye's, no nay's.

Vice Chairman Kasper: I would like to work on an amendment that would bring a requirement to report the safety grant programs to the legislative council.

Chairman Keiser: There are three sources that it could be reported to, legislative council, interim worker's comp committee, or interim House Industry, Business and Labor committee.

I would encourage not sending to everybody.

Closes the hearing on HB 1151.

# 2009 HOUSE STANDING COMMITTEE MINUTES

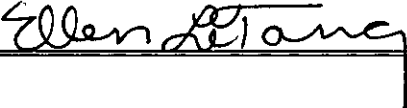
Bill/Resolution No. 1151

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8656

Committee Clerk Signature 

**Chairman Keiser:** Opened the committee work session on HB 1151.

**Chairman Keiser:** Even though there is a fiscal impact, there is no fiscal impact. An amendment is passed out.

**Vice Chairman Kasper:** I was concerned with the reporting of a safety grant data. All this does is adds a requirement on the safety grant program and the organization shall compile data and report. Currently there is no accounting, no reporting or we don't know if it's effective or not. This would just make them tell us what is going on.

**Vice Chairman Kasper:** Moves to adopt the amendment on HB 1151.

**Representative Ruby:** Second.

**Chairman Keiser:** Further discussion.

All aye's, no nay's.

**Chairman Keiser:** What are your wishes of the committee?

**Representative Nottestad:** Do Pass as Amended.

**Vice Chairman Kasper:** Second.

Voting rolling was taken on HB 1151 for a Do Pass as Amended with 12 aye's, 0 nay's, 1 absent and Representative Nottestad is the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/16/2009

Amendment to:           Engrossed  
                                  HB 1151

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 clarifies the definition of wages for employer reporting purposes; provides for housekeeping changes to the information fund; provides for transparency in the grant program; and repeals the mine foreman certification statute.

**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  
2009 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1151 with Senate Amendments

BILL DESCRIPTION: WSI Employer Services Bill

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 clarifies the definition of wages for employer reporting purposes; provides for housekeeping changes to the information fund; provides for transparency in the grant program requiring a report of grant information biennially to the legislative council and allowing for disclosure of grant information made to employers; and repeals the mine foreman certification statute.

FISCAL IMPACT: No significant fiscal impact is anticipated.

DATE: March 16, 2009

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.*

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-6016	<b>Date Prepared:</b>	03/16/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/09/2009

Amendment to: HB 1151

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 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.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 clarifies the definition of wages for employer reporting purposes; provides for housekeeping changes to the information fund; provides for transparency in the grant program; and repeals the mine foreman certification statute.

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  
2009 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1151

BILL DESCRIPTION: WSI Employer Services Bill

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 clarifies the definition of wages for employer reporting purposes; provides for housekeeping changes to the information fund; provides for transparency in the grant program requiring a report of grant information biennially to the legislative council and allowing for disclosure of grant information made to employers; and repeals the mine foreman certification statute.

FISCAL IMPACT: No significant fiscal impact is anticipated.

DATE: February 7, 2009

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.

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-6016	<b>Date Prepared:</b>	02/09/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/07/2009

Bill/Resolution No.: HB 1151

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 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.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 clarifies the definition of wages; provides for housekeeping changes to the Information Fund; provides for transparency in the grant program; reduces the medical expense assessment; and repeals the mine foreman certification statute.

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  
2009 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1151

BILL DESCRIPTION: Employer Services Bill

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 clarifies the definition of wages for employer reporting purposes; provides for housekeeping changes to the Information Fund; provides for transparency in the grant program allowing for disclosure of grant information made to employers; reduces the medical expense assessment from \$350 to \$250 for reporting claims after 14 days; and repeals the mine foreman certification statute.

FISCAL IMPACT: No significant fiscal impact is anticipated.

DATE: January 8, 2009

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.*

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-6016	<b>Date Prepared:</b>	01/08/2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1151

Page 1, line 1, after "Act," insert "to create and enact a new section to chapter 65-03 of the North Dakota Century Code relating to reporting requirements in safety grant programs; and"

Page 2, after line 3 insert:

**"SECTION 3.** A new section to chapter 65-03 of the North Dakota Century Code is created and enacted as follows:

**65-03-05. Safety Grant Programs – Reporting Requirements.** The organization shall compile data relating to grants issued under this chapter and report biennially to legislative council.

Renumber accordingly

February 4, 2009

VR  
2/5/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1151

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 65-03 of the North Dakota Century Code, relating to reporting requirements in safety grant programs;"

Page 1, line 2, replace the first comma with "and" and remove ", and 65-05-07.2"

Page 1, line 3, after the second comma insert "and" and remove ", and penalties applied to medical"

Page 1, line 4, remove "expense assessments"

Page 2, after line 3, insert:

**"SECTION 3.** A new section to chapter 65-03 of the North Dakota Century Code is created and enacted as follows:

**Safety grant programs - Reporting requirements.** The organization shall compile data relating to grants issued under this chapter. The organization shall report biennially to the legislative council."

Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 22

Renumber accordingly

Date: Feb 4-2009  
Roll Call Vote # \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1151

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By Nottestad Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓✓		Representative Boe		
Representative Clark	✓		Representative Gruchalla	✓	
Representative N Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓✓✓				
Representative Sukut	✓✓✓				
Representative Vigesaa	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Nottestad

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



**REPORT OF STANDING COMMITTEE**

**HB 1151: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1151 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 65-03 of the North Dakota Century Code, relating to reporting requirements in safety grant programs;"

Page 1, line 2, replace the first comma with "and" and remove ", and 65-05-07.2"

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Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 22

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1151

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1151

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10139, 10729

Committee Clerk Signature 

Minutes:

*Troy Schuchard*

**Chairman Klein:** Opened the hearing on HB 1151, all members present.

**Jodi Bjornson:** General Counsel for WSI testified in support of HB 1151. (See attachment #1)

**Senator Potter:** What amounts were given to which organizations in safety grants? How will this affect that? Will I be able to tell how much premiums are based upon how much was given, for instance to the firefighters or AGC or some other organization?

**Jodi Bjornson:** What this bill will do is give us the ability to extend and relay information in an employer's file information or grant information to the extent that you cannot back into calculation of premium. In your specific instance, the general rule is going to apply.

**Senator Potter:** So I am not going to be able to know what the premiums are because some grants are based upon categories. Before this has been your opinion and now we are putting it into code so as to back up your opinion?

**Jodi Bjornson:** That was the opinion of the Attorney General.

**Senator Potter:** It was only an opinion, I understand that, but now you are suggesting we put it into code so there won't be any question.

**Jodi Bjornson:** I think the amendment is going to give us grant information that wasn't available before. It is just that narrow area that they are not going to be able to back into premium amount or payroll information.

**Senator Potter:** How is it possibly harmful to a business for us to know the category of premium that they are paying?

**Jodi Bjornson:** It has been guarded since I have been there. My speculation as to why it is there is for competitive reasons. Once you start getting into what somebody is paid, it's based on their wages. Competitors can figure out what somebody is paying within their organization for salaries and wages. That would probably be the biggest adverse affect on an employer, their financial books become subject to scrutiny.

**Chairman Klein:** So what I am hearing is that if I apply for a safety grant and get it, there are peoples out there that want to know some of my information other than the necessary information to disclose to get that grant. The information that wouldn't be released if I wasn't applying for this grant would certainly be locked up.

**Sylvan Loergering:** North Dakotas Aging Workers Support Group testified in support of HB1151. I just wanted to make a quick comment in regards to the safety grant programs on page 2 section 3. The bill calls for a compilation of data without specifying data. I would hope that somewhere in the intent or practice that this data includes what we are paying for safety grants, what we are saving in benefits payable through these safety grants. Are the safety grants saving the fund money?

**Chairman Klein:** I think the record would reflect that is the intent of this body as well, are we getting any bang for our buck!

**Sylvan Loergering:** My intent is to evaluate the safety programs and not single out one individual employer. I don't see the benefit in that. I believe there are some individuals who are

in this Legislative body who is a business owner and has collected money and it would be no surprise to find that business owner voting in support of WSI.

**Chairman Klein:** Closed the hearing on HB 1151

**Chairman Klein:** Opened discussion on HB 1151

**Senator Potter:** My proposed amendment has to do with the confidentiality of the information on Safety Grants. My position is very simple "You shouldn't be hiding the amount granted in the Safety Grant from the people of the State of North Dakota." Motion to amend HB 1151.

**Senator Andrist:** Seconded

**Chairman Klein:** Motion for a Do Pass on the amendment to HB 1151. 6-1

**Senator Andrist:** Motion for a Do Pass as Amended on HB 1151

**Senator Potter:** Seconded

**Chairman Klein:** Motion for a Do Pass as Amended on engrossed HB 1151 approved 7-0,

March 4, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1151

Page 1, line 3, after "65-01-13" insert ", 65-03-04,"

Page 1, line 4, after the third comma insert "safety grant awards,"

Page 2, after line 4, insert:

**"SECTION 3. AMENDMENT.** Section 65-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**65-03-04. Safety programs - Continuing appropriation.** The organization shall create and operate work safety and loss prevention programs to protect the health of covered employees and the financial integrity of the fund, including programs promoting safety practices by employers and employees through education, training, consultation, grants, or incentives. As a term of award of a grant under this section, a recipient authorizes the organization to disclose the name of the award recipient and the amount of the award received. Any funds deposited in the workforce safety insurance fund are appropriated to the organization on a continuing basis for the purpose of funding the programs implemented under this section.

Page 2, line 25, replace "that" with "which the organization is specifically authorized to disclose or under section 65-03-04 which"

Renumber accordingly

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Date: 3/11/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1151

Senate

Committee

**Industry, Business and Labor**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  **Pass**  **Do Not Pass**  **Amended**

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair		✓	Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment \_\_\_\_\_

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

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Date: 3/11/09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1151

Senate

Committee

**Industry, Business and Labor**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  **Pass**  **Do Not Pass**  **Amended**

Motion Made By Senator Andrist Seconded By Senator Potter

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman			Senator Arthur H. Behm		
Senator Terry Wanzek - V.Chair			Senator Robert M. Horne		
Senator John M. Andrist			Senator Tracy Potter		
Senator George Nodland					

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Potter

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



**REPORT OF STANDING COMMITTEE**

HB 1151, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1151 was placed on the Sixth order on the calendar.

Page 1, line 3, after "65-01-13" insert ", 65-03-04,"

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Page 2, line 25, replace "that" with "which the organization is specifically authorized to disclose or under section 65-03-04 which"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1151

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1151

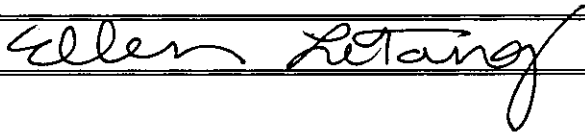
## House Industry, Business and Labor Committee

Check here for Conference Committee

**Hearing Date:** April 15, 2009

**Recorder Job Number:** 11873

Committee Clerk Signature



**Chairman Nottestad:** Opened the Conference Committee hearing on HB 1151.

**Representative Nottestad:** We looked at the amendment and the chairman decided not to concur. There are a couple of things that I would like to ask as we get started. The amendments that were added by the Senate, what do you feel have done and will do to change the bill as it went to the Senate?

**Senator Andrist:** I will let Senator Potter talk to this as it's his amendments on the safety grants and how much it is. We have in our constitution open records. If we are going to give tax payers money to an organization, it should be public information. All else should remain confidential.

**Representative Nottestad:** I will ask this question, do you see unintended consequences as a result of opening it up totally. Would companies tend not to apply for these safety grants because of the notoriety and information being passed on?

**Senator Potter:** I don't recall that was discussed but that was certainly on the back of my mind. I really don't see that. If I'm applying for a grant, I know that if I receive those grants that it's going to be a matter of public record. On the flip side is "what is the potential for grants being given out secretly", only the agency knows? That raises a level of concern in the

general public who is getting this. The transparency will make it clearer that these grants are going to the intended purposes. This stemmed from a visit to WSI because I heard that safety grant information was confidential. If public money is being spent, the public has a right to know where it's going. They could tell us the names of the organizations who received them? The one thing they can't know was how much was received. The amount of grant is based on the premium level. The solution in this bill is that you sign and say it's ok to reveal that.

**Representative Nottestad:** My big concern is will these companies tend not to apply for these reasons and will it hurt the work in the long run? What there ever a discussion that releasing this information by category rather than individual companies?

**Senator Andrist:** No there wasn't but the one thing I would like to add to the discussion, WSI told us that they didn't have any problem with this either.

**Representative N Johnson:** For the safety grant being public dollars, I didn't realize there were general fund appropriations; I thought it was employer contributions.

**Senator Andrist:** It's not general funds but it's still public money.

**Senator Potter:** It's precisely what I meant. Yes, its premium dollars and it's a tax. I would like to answer the Chairman's question again. If it's going to be public record that I received a grant, I don't think it inhibits my applying for a grant because of how much the grant was.

**Senator Andrist:** Would you be comfortable in asking Ann Green of WSI, her feeling about this? The original bill didn't have this provision in and a third look at this might have some comment.

**Ann Green~WSI Staff Council.** The original language in HB 1151 included language that sought to define what constituted an employer's file for all information documents except for grant award under section 65.0304. The original form of the bill anticipated a disclosure of grant funds. WSI has always treated employer information very carefully and there are

penalties for disclosure of information. On the flip side, 35 million dollars was appropriated 2 sessions ago for safety grants. WSI is mindful of the idea that the public wants to see where these dollars are going, who's getting them and how much there are getting. Part of the original intent of HB 1151 was to reflect the willingness of the agency to disclose that information should that guidance come from the legislature.

**Senator Potter:** Did the board of directors support the introduction of HB 1151?

**Green:** The board of directors initially signed off on HB 1151 and then had a discussion about the amendments and did not oppose them.

**Senator Andrist:** I think we should look for reasons to keep records and information flowing. If we can identify a strong reason in keeping information confidential, that one thing, but we shouldn't look for a reason.

**Representative N Johnson:** Did the board have any concern about people not trying to get safety award grants because of that information being shared?

**Green:** I don't recall that was a topic of conversation.

**Representative Nottestad:** As the board talked about these amendments, did they talk about the House and the Senate's?

**Green:** The way our process works internally is the bill in the original form, typically amendments are made; amendments will come back to the board of directors for their continued support or a change in their position.

**Representative Nottestad:** Has there been any concerns in WSI about these amendments?

**Green:** No.

**Senator Nodland:** Do you have a concern about the untended consequences.

**Representative Nottestad:** Yes and there are many things that comes down.

**Senator Nodland:** As the employer?

**Representative Nottestad:** The unintended consequences would be will it diminish people applying for the safety grants? Would there be less application of these safety grants. Would it tend to make a lesser safe work place? That is my concern.

**Senator Nodland:** Because there might be something that might be disclosed that they don't want to disclosed or in competition?

**Representative Nottestad:** In state companies probably have less concern for this but the larger corporations that have franchises and that type of thing.

**Senator Andrist:** I'm not too sure how many people are going to be excited to look up this information up. It would seem to me this information would incentivize companies.

**Representative Nottestad:** That's the different side of the picture.

**Senator Potter:** Ann, do we get more grant applications than grant awards?

**Green:** I don't have those numbers, I can't answer that question.

**Senator Potter:** We had no opposition from the employer side at our hearing, have you talked to employers.

**Representative Nottestad:** There has been some conversations and when you were saying that the employers didn't oppose it, was this amendment put forth in discussion or put forth during the committee hearing?

**Senator Potter:** It was in discussion?

**Senator Andrist:** Would you like to talk it over and come back again?

**Representative Nottestad:** Yes.

**Representative N Johnson:** I would like a chance to call other employers on how they would react to it and their feelings.

**Senator Potter:** This is an attempt to restore confidence in WSI.

**Representative Nottestad:** Closes the hearing.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1151

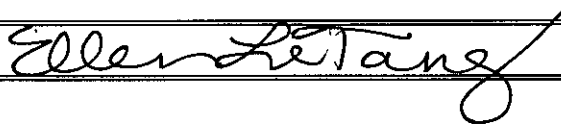
## House Industry, Business and Labor Committee

Check here for Conference Committee

**Hearing Date:** April 20, 2009

**Recorder Job Number:** 11960

Committee Clerk Signature



**Chairman Nottestad~Calls the Conference Committee hearing to order.**

**Representative Nottestad:** When we left the last meeting, Representative N Johnson was going to make contacts with some of the business pertaining to this.

**Representative N Johnson:** I did contact some, they didn't have a lot of problem with it but they did have a concern on how the information was going to be used? This is going to be the first time that there is going to be a reporting requirement for the safety grants to compile data. I had a chance to visit with Ann Green from WSI and could that information be done by manufacturing, health care and by different groups to see how effective safety grants are. She said that they do collect it and they could bring that information on how the safety program is working.

**Senator Andrist:** Ms Green from WSI that on the Senate version, page 3, sections 2 & 3, it's their interpretation that they actually permit the disclosure anyway. I was going to suggest letting her explain that.

**Ann Green~Staff Counsel with WSI.** We discussed the language of the bill in its original form which was put forward in HB 115, in response, not only to the Attorney General's opinion on this issue, but also in response to the idea of transparency in the grant programs,

disclosure of information relating to the grant programs. What came out of the conversation between Senator Andrist and I is that the original intent was in that section of the language, was increased transparency of grant information coming out of the agency.

**Senator Potter:** That does not disclose payroll or premium information. Would it be the interpretation of the agency that premium information be revealed if the amount of the grant was revealed?

**Green:** No, none of the version of the bill permits the disclosure of premium information. That is one of the things that under 65.0415, which is our employer confidentiality statute.

**Senator Andrist:** So without Senator Potter's amendment, if I were to call you up and ask you, if you gave a safety grant for the Abraham Lincoln Foundation, you would tell me yes or no. If it was yes, you would tell me how much?

**Green:** Without Senator Potter's amendments, that the interpretation of the agency, yes.

**Senator Andrist:** I guess I could recede. I like the language of it because it adds clarity to it to what's confidential.

**Senator Potter:** I guess my question to the agency would be, do you want it make it very clear or are you comfortable that it is clear; we want you to release this information?

**Green:** Certainly the less ambiguity in the statute, the easier the application.

**Senator Potter:** It seems to me what Ann is saying to us, that there is no harm or change in the policy if you accept the Senate's version. It's the same as the House version only clearer.

**Representative Nottestad:** That's a point of view.

**Senator Potter:** Is that your point of view, Ann.

**Green:** I will not take an opinion on that.

**Senator Andrist:** You told me that WSI was going to use this information to market your safety program and encourage to release that information for others to apply for this grant.



**Green:** I don't believe that I used the word market. I did say that it is easier for the agency to be transparent in these matters. Additionally, the disclosure of the business who received grants and with the amendments of Representative Kasper on the house side, the required reporting of the effectiveness of the grants programs, makes those programs more available.

**Senator Andrist:** Again in our conversation, I mentioned if we were going to disclose information, we might want to kill it, you encouraged me not to kill it because you felt it was an important help for you to be able to work with this. I believe this is the heart of this thing.

**Green:** Absolutely, there are a number of provisions in HB 1151 that the agency needs the practical matter to conduct business.

**Representative N Johnson:** Who determines the safety grant awards, at what level?

**Green:** The safety grants awards are made by a group of individuals in the agency in middle management and I believe there is some rotation. The executive committee of WSI does not participate on that committee.

**Andrist:** Asks for an example of applying for a safety grant award.

**Green:** Walks through the application process.

**Representative Nottestad:** You made one statement; you said that the amount of the safety grants is based upon the amount of premium that a company pays. Wouldn't that in essence, by releasing the amount of the safety grant indicate the amount of premium that organization would be paying?

**Green:** That is the argument that the agency has put forward in the past.

**Representative Nottestad:** This would give you another back in step.

**Green:** It would and the response to that argument is if we are talking about a range of premium, so it wouldn't actually disclose the amount the premium that the employer is paying.

**Representative Nottestad:** With the removal of the Senate's amendment, what way would it handicap the organization.

**Green:** It would not.

**Senator Andrist:** Would the agency be more or less comfortable with the Senate's amendments?

**Green:** The agency can applaud statute with or without the Senate's amendments.

**Senator Potter:** There are occasions when premium levels are already public record.

**Green:** You can determine whether their premium level is above or below.

**Senator Potter:** You would be able to work backwards into the same kind.

**Green:** That's correct.

**Representative Nottestad:** That wouldn't change with or without the amendment.

**Green:** That's correct.

**Senator Andrist:** In my business for 30 years, I was for transparency in government, I can see no reason we shouldn't encourage transparency unless we have a specific reason not to do it. My first motion is going to be is that the House accedes to our amendment.

**Senator Potter:** Second.

**Representative Nottestad:** Further discussion?

**Senator Potter:** The ability to back into premium level is something we already have in certain cases, that is the name of the board members, if you are going to take public money, it's critically important that it be transparent. I say we want to vote for it.

**Representative N Johnson:** From what Ann just said, both of them do the same thing.

**Representative Nottestad:** I would say the same thing, so I would oppose the motion.

**Voting roll call was taken that the House accede to the Senate's amendments with 4 yes, 2 no, 0 absent. Amendment did not pass.**

**Senator Andrist:** I would request that we have a follow up meeting.

**Representative Nottestad:** I will do have Eric do that. Closes the hearing HB 1151.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1151

**House Industry, Business and Labor Committee**

Check here for Conference Committee

**Hearing Date:** April 24, 2009

**Recorder Job Number:** 12186

Committee Clerk Signature

*Ellen L. Tang*

**Chairman Nottestad opened the Conference Committee hearing on HB 1151.**

**Representative Nottestad:** As we looked at this bill, we've seen things that we probably didn't see when we were in session as far as the transparency. I feel we have the transparency in this bill with or without your amendment.

**Representative N Johnson:** Moves that the Senate recede from the Senate amendments.

**Representative Boe:** Second.

**Representative Nottestad:** Further discussion.

**Senator Andrist:** When we gathered the information we did. I was inclined to think this would be fine. On further thought, there are 2 reasons why I can vote for this. One, now that it appears to us that the records is open and the information is available, that the agency intends to be available, if we take this language out which sort of reinforces it, we send a mixed message of what the legislature's intend was. Second, if there should be somebody who challenged whether it should be done, if it went into a court case, we would be leaving tracks that it was a legislative intent not to be public. Since the Senate amendment reinforces what the bill intended to do before, that's why I still prefer the language.

**Representative N Johnson:** I guess the language was already there and so add it in twice?

**Senator Potter:** If it doesn't matter, then we have a chance to vote for transparency and openness as voting against it. The flip side perhaps somebody in the future wouldn't define it the same in the future. I'm with Senator Andrist.

**Representative Nottestad:** I'm concerned with duplication in the code and my estimation is that it's not needed, I've have just as much concern about that.

**Senator Andrist:** My answer to Representative N Johnson questions is why not? I have a philosophical problem with taking it out. I like to send that message out that we do thing transparently. North Dakota has a strong tradition of transparency.

**Representative Nottestad:** You wouldn't have to have 2 laws to say the same thing.

**Representative N Johnson:** I wanted to say something about Senator Potter's comment. He said one had transparence and one that doesn't, both ways have transparency, do we say it once or do we say it twice?

**Senator Nodland:** I agree with both Senators. At first I had an issue about how much information is going out but after the hearing and heard the testimony, I agreed with them. It's is duplication but it's making a bold statement.

**Voting roll call was taken on the HB 1151 the Senate recedes the Senate's amendments, motion failed 3 yes, 3 nays, 0 absent.**

**Senator Andrist:** Motions that the House accedes the Senate's amendments.

**Representative Boe:** Second.

**Representative Nottestad:** Further discussion?

**Voting roll call was taken on the HB 1151 the House accedes the Senate's amendments, motion carries with 6 yes, 0 nays, 0 absent and Representative Nottestad is the carrier.**

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

Bill Number 1151 (, as (re)engrossed):

Date: <sup>15</sup> ~~Apr 15~~ 2009

Your Conference Committee House 1B4

Apr 20 - 2009

**For the Senate:**

**For the House:**

<sup>Apr 15</sup> <del>Attend</del> <u>Sen</u>	<sup>Apr 20</sup> YES / NO	<sup>Apr 20</sup> YES / NO	<sup>Apr 15</sup> <del>Attend</del> <u>Sen</u>
* Sen Andrist *	* *	Ch Nottestad *	* *
* Sen Nodland *	* *	Rep N Johnson *	* *
* Sen Potter *	* *	Rep Thorpe / Boe *	* *

recommends that the (SENATE/HOUSE) ~~(ACCEDE to)~~ <sup>Apr 20,</sup> (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>House accede to senates amendments</u>	

MOTION MADE BY: Sen Andrist

SECONDED BY: Sen Potter >

OTE COUNT 4 YES 2 NO 0 ABSENT > failed

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

Bill Number 1151 (, as (re)engrossed):

Date: Apr 24-2009

Your Conference Committee House 1B2

**For the Senate:**

**For the House:**

	YES / NO			YES / NO		
* Sen Andrist			* Ch Nottestad			*
* Sen Nodland			* Rep <sup>N</sup> Johnson			*
* Sen Potter			* Rep Boe			*

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

the (Senate/House) amendments on (SJ/HJ) page(s) 0983 --

\_\_\_\_, 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) 1151 was placed on the Seventh order of business on the calendar.

DATE: Apr. 24, 2009  
CARRIER: Nottestad

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep N Johnson

SECONDED BY: Rep Boe

OTE COUNT    3 YES    3 NO    0 ABSENT    → failed  
Revised 4/1/05    6            0            0

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

Bill Number 1151 (, as (re)engrossed):

Date: Apr. 24-2009

Your Conference Committee HIBL

**For the Senate:**

**For the House:**

	YES / NO			YES / NO	
Sen Andrist		*	Ch. Nottestad	*	
Sen Nodland		*	Rep N Johnson	*	
Sen Potter		*	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) 1151 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	

MOTION MADE BY: Rep N Johnson

SECONDED BY: Rep Boe

OTE COUNT 3 YES 3 NO 0 ABSENT - motion failed



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

Bill Number 1151 (, as (re)engrossed):

Date: Apr. 24 - 2009

Your Conference Committee HIBL

**For the Senate:**

**For the House:**

	YES / NO			YES / NO	
Sen Andrist	*		Ch. Nottestad	*	
Sen Nodland	*		Rep N Johnson	*	
Sen Potter	*		Rep Boe	*	

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

the (~~Senate~~/House) amendments on (SJ/HJ) page(s) 0938--

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) 1151 was placed on the Seventh order of business on the calendar.

DATE: Apr 24 - 2009

CARRIER: Rep Nottestad

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen Andrist

SECONDED BY: Rep Boe

OTE COUNT 4 YES 0 NO 0 ABSENT

*Passed*

**REPORT OF CONFERENCE COMMITTEE**

**HB 1151, as engrossed:** Your conference committee (Sens. Andrist, Nodland, Potter and Reps. Nottestad, N. Johnson, Boe) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 0938 and place HB 1151 on the Seventh order.

Engrossed HB 1151 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1151

**2009 House Bill No. 1151**  
**Testimony before the House Industry, Business, and Labor Committee**  
**Anne Jorgenson Green, Staff Attorney**  
**Workforce Safety and Insurance**  
**January 26, 2009**

Mr. Chairman, Members of the Committee:

My name is Anne Green and I am staff counsel for Workforce Safety and Insurance (WSI). I am here to testify in support of HB 1151. WSI's Board of Directors unanimously supports this bill.

**Section 1.** Section one clarifies within the law WSI's existing practice relating to the definition of wages for purposes of calculating premium. To properly assess the risk associated with a job, WSI collects the gross wages of employees including any dollars allocated pre-tax. This figure most accurately reflects the exposure of the individual performing the work.

**Section 2.** WSI's information fund is made up of all dollars received from stakeholders who have requested and received statistical information from WSI. The proposed language would not require WSI to keep these dollars in a separate fund, but would permit WSI to make these dollars a part of the WSI fund. The information fund would continue to be tracked separately for book keeping purposes, but monies received by WSI would be deposited into the WSI fund. This change more accurately reflects the accounting practices of WSI.

**Section 3.** WSI handles all information contained in its employer files carefully. To protect that information and to avoid penalties associated with disclosure, WSI errs on the side of nondisclosure when releasing information. This proposed amendment clarifies the confidential nature of an employer's file and defines what constitutes the employer's file. WSI understands, however, that disclosure of some information is necessary and useful. While protecting information provided to WSI from the employers of North Dakota, this proposed amendment includes language permitting the release of specific employer information when an employer is the recipient of funds through WSI's grant programs.

**Section 4.** A medical expense assessment is similar to a deductible in the private insurance industry. During the 2005 session, the legislature adopted an incentive for the timely reporting of injuries and a penalty for the late reporting of injuries. Through our experience we've learned that providing an incentive for the early reporting of injuries works. Injured workers receive care faster and employers save \$250 when their medical expense assessment is waived by WSI. We've also

learned that a variety of legitimate reasons exist when an employer does not file an incident report or a claim with WSI. Our analysis suggests that while the incentive is effective, the penalty is not. Section 4 removes the \$350 medical expense assessment for failure to file a claim within 14 days of a workplace injury.

**Section 5.** N.D.C.C. §65-03-03 permits WSI to adopt rules for the examination and certification of mine foremen. In practicality, WSI has served only as the administrator for the testing of individuals who wish to obtain a certification of mine foreman. WSI has no other jurisdiction over the qualification or certification of mine foremen. The North Dakota Safety Council has the expertise to manage this certification process and has agreed to administer the testing of these individuals. Section 5 proposes a repeal of this section. These duties will then transfer to the North Dakota Safety Council.

That concludes my testimony. I am happy to answer any questions that you may have.

## North Dakota Workforce Safety & Insurance

NORTH DAKOTA WEEKLY BENEFIT LEVELS				
EFFECTIVE	MAXIMUM <sup>1</sup>	MINIMUM <sup>2</sup>	PPI <sup>3</sup>	SAWW
07-01-08	\$689	\$376	\$209	\$626
07-01-07	\$653	\$356	\$198	\$593
07-01-06	\$624	\$341	\$189	\$567
07-01-05	\$604	\$330	\$183	\$549
07-01-04	\$577	\$315	\$175	\$524
07-01-03	\$555	\$303	\$168	\$504
07-01-02	\$537	\$293	\$163	\$488
07-01-01	\$516	\$282	\$157	\$469
07-01-00	\$497	\$271	\$151	\$451
08-01-99	\$480	\$262	\$146	\$436
07-01-99 TO 07-31-99	\$436	\$262	\$146	\$436
07-01-98	\$417	\$251	\$139	\$417
07-01-97	\$402	\$241	\$134	\$402
07-01-96	\$387	\$233	\$129	\$387
07-01-95	\$376	\$226	\$126	\$376
07-01-94	\$366	\$220	\$122	\$366

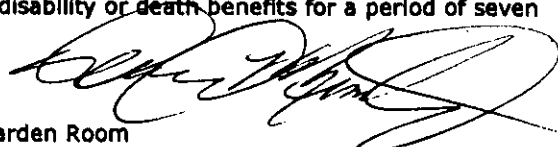
<sup>1</sup> Effective August 1, 1999, the maximum weekly benefit is equal to 110% of the SAWW.

<sup>2</sup> The minimum benefit is equal to 60% of the SAWW unless this amount exceeds the employee's net wages (gross wages minus deductions for federal income tax and social security) in which case the employee receives net wages as a weekly compensation rate.

<sup>3</sup> The PPI rate is equal to 33<sup>1</sup>/<sub>3</sub>% of the SAWW in effect on the date of the impairment evaluation.

*ND AFL-CIO Notes*

disability benefits, or death benefits, and who has been receiving disability or death benefits for a period of seven three consecutive years is eligible for supplementary benefits.



MON 01/26 08:00 AM Peace Garden Room

**HB 1101** H-IBL **Chairman:** Rep. G. Keiser

**Comments:** ND AFL-CIO supports. (<sup>*Sponsors*</sup>At the request of Workforce Safety and Insurance) Weekly and aggregate benefit subject to a minimum of sixty percent and a maximum of one hundred ten twenty-five percent of the average weekly wage in the state. dependency allowance for each child of the employee at the rate of ten fifteen dollars per week per child. organization shall still pay costs of vocational rehabilitation, burial expenses, travel, other personal reimbursement for seeking and obtaining medical care , and

MON 01/26 08:00 AM Peace Garden Room

**HB 1151** H-IBL **Chairman:** Rep. G. Keiser

**Comments:** No ND AFL-CIO position taken as of 1-23-09 (<sup>*Sponsors*</sup>At the request of Workforce Safety and Insurance) A "wages" means all gross earnings of all employees. The term includes all pretax deductions for amounts allocated by the employee for deferred compensation, medical reimbursement, retirement, or any similar program, but may not include dismissal or severance pay. Employer \$350.00 deductible is eliminated.

MON 01/26 02:00 PM Peace Garden Room

**HB 1201** H-IBL **Chairman:** Rep. G. Keiser

**Comments:** (<sup>*Sponsor*</sup>Representative Keiser, This bill changes the name of Office of Independent Review (OIR) to "Decision Review Office". The ND AFL-CIO is neutral on this bill but would like to see the Office of Independent Review be separated from Worker's Comp. and then actually advocate for claimants. This change in name only is an attempt to change the subject on what OIR should be.

MON 01/26 02:00 PM Peace Garden Room

**HB 1247** H-IBL **Chairman:** Rep. G. Keiser

**Comments:** (<sup>*Sponsors*</sup>Representatives Amerman, J. Keish, Potter Senators Dotzenrod, Potter ND AFL-CIO supports this bill as written. The organization shall pay to an employee receiving disability benefits a dependency allowance for each child of the employee at the rate of thirty dollars per week per child. Effective August 1, 2009, this rate must be paid to each eligible employee regardless of the date of injury.

MON 01/26 02:00 PM Peace Garden Room

**HCR3002** H-IBL **Chairman:** Rep. G. Keiser

**Comments:** ND AFL-CIO opposes the "mutualization of Workers Comp. in ND. (<sup>*Sponsor*</sup>Interim Industry, Business, and Labor Committee CHAIRED BY REP> BERG) WSI Governance legislative study of the governance structure of Workforce Safety and Insurance and determine the feasibility and desirability of mutualization of Workforce Safety and Insurance.

MON 01/26 02:00 PM Peace Garden Room

**HCR3008** H-IBL **Chairman:** Rep. G. Keiser

**2009 Engrossed House Bill No. 1151**  
**Testimony before the Senate Industry, Business, and Labor Committee**  
**Jodi Bjornson, General Counsel**  
**Workforce Safety and Insurance**  
**March 4, 2009**

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson and I am General Counsel for Workforce Safety and Insurance (WSI). I am here to testify in support of Engrossed House Bill 1151. WSI's Board of Directors unanimously supports this bill.

**Section 1.** Section one clarifies within the law WSI's existing practice relating to the definition of wages for purposes of calculating premium. To properly assess the risk associated with a job, WSI collects the gross wages of employees including any dollars allocated pre-tax. This figure most accurately reflects the exposure of the individual performing the work.

**Section 2.** WSI's information fund is made up of all dollars received from stakeholders who have requested and received statistical information from WSI. The proposed language would not require WSI to keep these dollars in a separate fund, but would permit WSI to make these dollars a part of the WSI fund. The information fund would continue to be tracked separately for book keeping purposes, but monies received by WSI would be deposited into the WSI fund. This change more accurately reflects the accounting practices of WSI.

**Section 3.** Section three reflects an amendment made by the House Industry, Business and Labor committee. The amendment requires WSI to compile and submit data regarding safety grants to the legislative council.

**Section 4.** WSI handles all information contained in its employer files carefully. To protect that information and to avoid penalties associated with disclosure, WSI errs on the side of nondisclosure when releasing information. This proposed amendment clarifies the confidential nature of an employer's file and defines what constitutes the employer's file. WSI understands, however, that disclosure of some information is necessary and useful. While protecting information provided to WSI from the employers of North Dakota, this proposed amendment includes language permitting the release of specific employer information when an employer is the recipient of funds through WSI's grant programs.



Section 5. N.D.C.C. §65-03-03 permits WSI to adopt rules for the examination and certification of mine foremen. In practicality, WSI has served only as the administrator for the testing of individuals who wish to obtain a certification of mine foreman. WSI has no other jurisdiction over the qualification or certification of mine foremen. The North Dakota Safety Council (NDSC) has the expertise to manage this certification process and has agreed to administer the testing of these individuals. Section 5 proposes a repeal of this section. These duties will then transfer to the NDSC.

That concludes my testimony. I am happy to answer any questions that you may have.