

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1525

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1525

## House Industry, Business and Labor Committee

☐ Check here for Conference Committee

**Hearing Date:** January 28, 2009

**Recorder Job Number:** 8076

Committee Clerk Signature

*Ellen Heland*

**Chairman Keiser:** Opened the hearing on HB 1525 relating to worker's compensation retirement presumption & additional benefits payable.

Representative Amerman: Introduces HB 1525. This bill will help those who are in Social Security retirement and WSI reduce the offset.

Steve Little~Lawyer from Bismarck representing injured workers. I support HB 1525. We want to restore the law that was in effect several years ago and basically provide that workers who remained disabled can still continue to receive disability benefits. WSI has succeeded in balancing the budget or generating money on the backs of those disabled workers that are frankly in the worst position in trying to make up for that. I have a handout for you from the Social Security administration that shows how there check is lower. See attachment 1.

Sylvan Loegering~Volunteer Coordinator, North Dakota Injured Workers Support Group. See testimony attachment 2.

Representative Vigesaa: When you are looking at the Social Security retirement age, are you looking at 62 or what they consider to be the full retirement.

Loegering: I believe they are looking at full retirement which is between 65 & 67 depending upon when they were born.

Representative N Johnson: You said in your testimony that it is expensive for society. Am I correct, this doesn't happen that it ends up being charged back to the employer, rather than society on the whole?

Loeering: It's going to be expensive for somebody. When they lose Worker's Compensation, there is a good chance that some other part of assistance from where ever it comes from (public at large), when the real problem came from the injury from the job.

Representative N Johnson: So what you are saying is that it goes back to all the employers in the state. Then, would they have to be charge everybody for someone who goes on disability, from the time of disability to the time until they die. You are saying that it should always be employer's responsibility forever?

Loeering: I'm not saying always or forever, but what I'm saying is first of all the employer has already met their responsibilities when paying the premiums when that person was working.

Representative N Johnson: You would have what an employer has now to cover that.

Loeering: That would have to come from a fiscal note. I don't have the numbers on that.

Chairman Keiser: We just received a copy.

Loeering: Effect on future premiums, I don't have any way of calculating.

Chairman Keiser: We will ask WSI when they testify.

Dave Kemnitz~President of the North Dakota AFL-CIO. This would sure simplify the understanding of the language.

Toni Weeks~Self. Injured worker who worked 20 years at Dakota Gasification and was the first woman operator hired at the plant. Talks about her injury from anhydrous ammonia where lines broke and it burned her face and lungs. She was over paid \$4,000 and WSI wanted her to pay it back. Every benefit I receive from Worker's Compensation, they offset \$300 of my benefit for Social Security offset. I'm pay \$300 every two weeks out of my benefits for Social

Security which is not going back into my Social Security. 2008, UMUM discontinued my long term benefits. As of this year, I will lose my benefit from Worker's Compensation even though I did not want to lose my job. So I came back to work with work restrictions, but they wanted me back. I paid into Social Security and I get no benefit for it. I don't have a 401K any more, I used it. I can't even work at Wal-Mart so please vote for HB 1525.

Sebald Vetter~C.A.R.E. I support this bill. They ask "how much does it cost", it should ask "how much did you save"? You have to start listening to us and ask us if it's a good bill.

Charles Wentz~Self. I urge you to vote HB 1525. (Somewhat inaudible) We earned it, we need it, we are not begging, we are asking.

Gerald Volk~Self See testimony attachment. Passage is important to me as well as others.

Representative Clark: Did WSI tell you why they thought that this couldn't be work related?

G Volk: No, all I have letters of denial but they never really gave me any reason, just said it was work related. Talks more about his recovery.

Representative Ruby: How are you affected by this bill?

G Volk: It going to affect my Social Security, pension, and benefits end up and how will I be compensated?

Representative Amerman: On the benefits you lose when you turn 66, would you share the amount you lose?

G Volk: About \$392.

Vice Chairman Kasper: Would you care to share how many dollars you were making weekly before you were injured?

G Volk: Probably a couple thousand weekly.

LeRoy Volk~Self. Injured in 2000, total disability is 2001, Worker's Compensation when I got my Social Security they want part and they took it. When I reached the age of 65, I'm going to

lose all payment what I could make. I asked Social Security, if I worked at the pace I am now, what will I be making? They told me a little over a 1,000 a month. In the mean time, when I was fighting with Worker's Compensation I had to take out of my retirement to finish raising my family. Now when I ready to ready, I have nothing to look forward to. If they take everything away, I will be sitting on welfare line. They took my part out and I never received it back.

Don Ulrich~Self. I was hurt when I was 62 years old. I turned 65 in 10 months; I got cut off Worker's Compensation. Do to this, it a cause me to file for bankruptcy in order to save my house, I had no intention of retiring. It's created a lot of problems. I have no credit. It takes a damn lot to come up here and say it.

Anyone here to testify in opposition of HB 1525?

Jodi Bjornson~General Counsel with WSI. See testimony attachment 4.

Representative Ruby: Can you explain to me when people retire, there is an amount that they must refund back?

Bjornson: What I understand when they qualify for Social Security retirement (inaudible) offset. (inaudible) overpaid Worker's Compensation. When we determine eligible to receive retirement benefits from Social Security, that amount has to be offset from the total. (Inaudible).

Chairman Keiser: Can you give us numbers? What is the maximum amount of benefit they could be receiving?

Bjornson: I can't pull that off the top of my head.

Chairman Keiser: \$650

Someone from the audience: \$686.

Chairman Keiser: So, somebody is receiving \$686 today for wage replacement? One month from now they get to the age where they go on Social Security retirement and say they are

going to be 66. If they were to get \$400 a week from Social Security, what would happen to the \$686 that they were getting from WSI?

Bjornson: That would convert to an additional benefit payable schedule and that will be based on how long they were injured and how much they were receiving? It would go down, however their Social Security retirement benefit, we do not offset additional benefit payable & Social Security retirement. (Inaudible)

Chairman Keiser: Today I'm receiving \$686, one month from now, I reach 66, so \$400 kicks in from Social Security. I get to keep the \$400, but I no longer get \$686 from WSI. That is discounted 40%.

Bjornson: That depends on how long you were injured.

Chairman Keiser: What is the maximum percentage it could be?

Bjornson: 50%

Chairman Keiser: The maximum it would go down is \$343.

Bjornson: No sir that's the maximum they can keep. It can go anywhere from zero in less than a year up to 50% of the benefit for 20 years. (Inaudible). Would be 5% of the weekly benefit that (inaudible).

Chairman Keiser: So now let's now say I have \$400 plus \$35.

Bjornson: Yes, of the weekly benefit from \$686.

Chairman Keiser: So they take a hit of \$251 weekly?

Bjornson: I should clarify that as well that is we have catastrophic insurance.

Chairman Keiser: Somebody who is has been receiving payment for over 10 years. What the discount then?

Bjornson: If you are more than 9 years and less than 11 years, you would be receiving 25%.

Chairman Keiser: So 25% of 700 so we are still not back up receiving before, right?

Bjornson: Right.

They still talk about the scenario.

Bill Shalhoob~President of the North Dakota Chamber of Commerce. See testimony attachment 5.

Anyone else here to testify in neutral?

Representative Vigesaa: May I ask Jodi Bjornson a question? Jodi, when the additional benefit payable structure put together, was it meant to come out as even as possible?

Bjornson: Roughly, that was the intent.

Vice Chairman Kasper: Since 1995 when the formula was set back then to try to keep the Social Security benefit whole, since then the Social Security has gone up & benefits have been escalating, has WSI done any current study to determine if you are meeting the goal to make the injured worker whole?

Bjornson: The data is dated.

Vice Chairman Kasper: You have 10 year old data.

Bjornson: Yes.

Chairman Keiser: The average weekly wage has probably escalated at a different rate than Social Security has.

Kemmintz: Just a clarification, I handed out a chart and talks about the chart.

Sebald Vetter: Talks about how he sees it.

Representative Ruby: Anyone that goes from their wage, then go to retirement, always takes a hit.

Sebald Vetter: When you reach retirement, why should your Social Security go down? You are going to get Social Security for the rest of your life.

Chairman Keiser: Closes the hearing on HB 1525.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1525

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8647

Committee Clerk Signature

*Ellen LeTang*

**Chairman Keiser:** Opened the committee work session on HB 1525.

**Chairman Keiser:** Hands out an amendment, see attachment. He met with WSI on Saturday. Talks about people receiving amounts of money preretirement that when they cross that magical line of retirement, their incomes cannot be less than but could be more than what they were getting preretirement. This is the agencies' conclusion.

**Representative Amerman:** I would prefer it go forward as drafted but I won't resist.

**Representative Vigesaa:** I don't believe it's right that all of a sudden when they hit retirement that they receive less. If there is a way the study can come up with a new formula to keep them at level, it's worth the study.

**Representative Vigesaa:** Move the amendment.

**Vice Chairman Kasper:** Second.

**Representative Ruby:** The purpose is to study the level of additional payable?

**Chairman Keiser:** Yes and no. It's to look at the whole picture and say did our concept of ABP work? If it didn't, how can we still keep it and use it or do we need to throw it out and go to something different. This study opens the door for a comprehensive examination of the offset issue.



**Representative Ruby:** Couldn't that study be done in conjunction with the other evaluations that they are looking at and this is going to cost \$50,000 on its own.

**Chairman Keiser:** Yes, that's how big this issue is and I think its money well spent.

**Representative N Johnson:** This is a "shall study", this is not an optional one?

**Chairman Keiser:** Yes.

**Representative Nottestad:** This study will be a WSI study and not an interim study.

**Chairman Keiser:** That correct.

**Representative Vigesaa:** In the fact that it's a \$50,000 study and WSI will not have to go to appropriations.

**Chairman Keiser:** It does not.

**Representative Amerman:** This creates a new section on 65-05.

**Chairman Keiser:** If we put it in, we have to have it as a new section and then we can delete it after the study is done.

**Representative Boe:** That can't put a sunset in?

**Chairman Keiser:** I just know that's not how they do it.

**Chairman Keiser:** Further discussion.

**Voting rolling was taken on amendment with 13 aye's and no nay's.**

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

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

**Representative Gruchalla:** **Seconded.**

**Chairman Keiser:** Further Discussion.

**Representative Amerman:** So this would be a study where they would hire a consultant.

**Chairman Keiser:** Yes.

**Representative Amerman:** This would be a study with a report.

**Chairman Keiser:** Yes.

**Representative Ruby:** I am going to resist the motion of a Do Pass as Amended; I think it should be more of a standard study that includes legislative input and involvement.

**Voting roll call on HB1525 for a Do Pass as Amended with 12 aye's, 1 nay, 0 absent and**

**Representative Vigesaa as the carrier.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/06/2009

Amendment to: HB 1525

**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 legislation requires WSI to conduct a study of post-retirement benefits and the additional benefit payable benefit structure during the interim and report its findings to the interim workers compensation review committee.

**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 1525

BILL DESCRIPTION: Post-Retirement Benefit Study

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 legislation requires WSI to conduct a study of post-retirement benefits and the additional benefit payable benefit structure during the interim and report its findings to the interim workers compensation review committee.

Fiscal Impact: No material impact to premium rate and reserve levels is anticipated. Estimated cost of study would be approximately \$50,000.

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>	02/07/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1525

**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 effectively eliminates the retirement presumption effective for post-1995 claims; eliminates the three year cap on disability benefits for employees injured after retirement eligibility; and repeals the additional benefit payable statutes.

**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 1525

BILL DESCRIPTION: Retirement Presumption and Additional Benefit

**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 effectively eliminates the retirement presumption effective for post-1995 claims. Under this proposal, claimants will continue receiving wage-loss benefits even after they become eligible for social security retirement benefits. The proposed bill also eliminates the three year cap on disability benefits for employees injured after they become eligible for social security retirement benefits. The proposed bill repeals the additional benefit payable statutes.

**Reserve Level Impact:** The reserve level impact of the current proposal will be limited to fiscal accident years 1995-96 and subsequent. The total reserve level increase for known claims will likely fall in a range between \$20 million and \$27 million. To the extent additional claims emerge; the cost estimates could be higher potentially double of the known claim estimate.

**Rate Level Impact:** The proposed legislation will serve to increase the costs associated with future claims. The premium rate level increase associated with the elimination of the retirement presumptions is anticipated to be between 2.5% to 3.5%, likely more than \$4.0 million per year.

DATE: January 28, 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>	01/28/2009

PROPOSED AMENDMENT TO HOUSE BILL 1525

Page 1, Line 1, after "A BILL" replace remainder of the bill with "for an Act to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to a study of post-retirement benefits within the workers compensation system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 65-05 of the North Dakota Century Code is created and enacted as follows:

**POST-RETIREMENT BENEFITS STUDY.** During the 2009-2010 interim, Workforce Safety and Insurance shall study the additional benefits payable benefit structure which comprise the post-retirement benefits available to persons whose disability benefits end at time of social security retirement eligibility. The study must identify the advantages and disadvantages of the current system to workers compensation benefit recipients. The study must include recommendations on whether changes are necessary and the costs of any proposed changes. Before the 2011 legislative session, Workforce Safety and Insurance shall report to the interim legislative workers' compensation review committee on the results of the study."

Renumber accordingly

February 4, 2009

VR  
2/4/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1525

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a workforce safety and insurance study of post-retirement benefits within the workers compensation system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Post-retirement benefits study.** During the 2009-10 interim, workforce safety and insurance shall study the additional benefits payable benefit structure that comprises the post-retirement benefits available to an individual whose disability benefits end at the time of social security retirement eligibility. The study must identify the advantages and disadvantages of the current system to workers' compensation benefit recipients. The study must include recommendations on whether changes are necessary and the cost of any proposed changes. Before August 1, 2010, workforce safety and insurance shall report the results of the study to the legislative council's workers' compensation review committee."

Renumber accordingly



Date: Feb 4 - 2009  
Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1525

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 \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman	7	
Vice Chairman Kasper	7		Representative Boe	7	
Representative Clark	7		Representative Gruchalla	7	
Representative N Johnson	7		Representative Schneider	7	
Representative Nottestad	7		Representative Thorpe	7	
Representative Ruby	7				
Representative Sukut	7				
Representative Vigesaa	7				

Total (Yes) 13 No 0

Absent 0

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

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

Date: Feb 24-2009  
Roll Call Vote # 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1525

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 \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman	7	
Vice Chairman Kasper	7		Representative Boe	7	
Representative Clark	7		Representative Gruchalla	7	
Representative N Johnson	7		Representative Schneider	7	
Representative Nottestad	7		Representative Thorpe	7	
Representative Ruby		1			
Representative Sukut	7				
Representative Vigesaa	7				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Vigesaa

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

**REPORT OF STANDING COMMITTEE**

**HB 1525: Industry, Business and Labor Committee (Rep. Kelsner, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1525 was placed on  
the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a  
workforce safety and insurance study of post-retirement benefits within the workers  
compensation system.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. Post-retirement benefits study.** During the 2009-10 interim,  
workforce safety and insurance shall study the additional benefits payable benefit  
structure that comprises the post-retirement benefits available to an individual whose  
disability benefits end at the time of social security retirement eligibility. The study  
must identify the advantages and disadvantages of the current system to workers'  
compensation benefit recipients. The study must include recommendations on whether  
changes are necessary and the cost of any proposed changes. Before August 1, 2010,  
workforce safety and insurance shall report the results of the study to the legislative  
council's workers' compensation review committee."

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1525

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1525

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10137

Committee Clerk Signature

Minutes:

**Chairman Klein:** Opened the hearing on HB1525

**Representative Amerman:** District 26, introduced engrossed HB 1525. The study before you is a mandatory study that will mandate WSI to study the additional benefits payable and the post retirement benefits over the interim and report to the reassigned committee. This study would be conducted by an outside firm, which is why there is a fiscal note of \$50K to pay the business that conducts the study.

**Senator Horne:** The study will focus on post retire benefits. Is that correct?

**Representative Amerman:** Post retirement benefits and additional benefits would be the two areas of study.

**Sylvan Loegering:** representing North Dakota Injured Workers Support Group testified in support of HB 1525 with proposed amendment. (See attachment #1)

**Jodi Bjornson:** General Counsel for WSI, testified in support of HB 1525

**Chairman Klein:** How do you envision this working, does this say just study ABP?

**Jodi Bjornson:** The intent of the bill was obtaining structure to look at the post retirement benefit structure in conjunction with workers compensation benefits when you hit eligibility of

retirement age. I look at it holistically. It's the intent to make that clearer, personally, I don't see a problem with that.

**Senator Potter:** So if we tell you it is our intent that you study this whole thing, we don't have to change the language and you would proceed with the Senates intent and you wouldn't have to check with the House?

**Jodi Bjornson:** We will do what we are told.

**Chairman Klein:** Closed the hearing on HB 1525

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1525

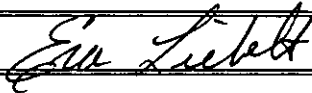
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10503

Committee Clerk Signature



Minutes:

Chairman Klein: House Bill 1525. I think there is a fiscal note here because this will be coming out of the administration portion rather than the reserve of WSI. It studies the ABP's and the post retirement benefits.

Senator Wanzek: Motioned for a do pass.

Senator Nodland: Seconded.

Roll Call Vote: 6-1

Floor Assignment: Senator Wanzek

This bill is rereferred.

Date: 3/9  
Roll Call Vote #: 1

## Senate

## Industry, Business and Labor

**Legislative Council Amendment Number**

Motion Made By Senator Wanzek Seconded By Senator Nodland

[illegible]

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Wanzek

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

Bill is rereferred!



**REPORT OF STANDING COMMITTEE**

HB 1525, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1525 was rereferred to the **Appropriations Committee**.

2009 SENATE APPROPRIATIONS

HB 1525

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1525

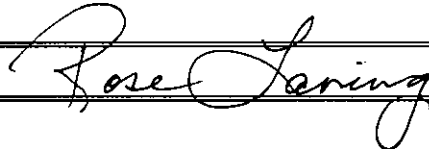
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11079

Committee Clerk Signature



Minutes:

**Chairman Holmberg:** Called the committee hearing to order on HB 1525 which is the study of post-retirement benefits within the workers compensation system.

**Bill Amerman:** Representative District 26 introduced and testified in support of HB 1525.

Mandatory study that WSI hired an independent firm to do the study. We see injured workers come forward and when they see, offset from WSI. The study was to look at laws from other states. Do we need to upgrade? Are our laws better than other states? \$50,000 price tag. They have performance audit.

**Chairman Holmberg:** Looking at fiscal note. Costs \$50,000, but won't impact reserve levels to any extent.

**Jim Pomeroy:** Senator District 27 testified in favor of HB 1525. No written testimony.

**Tim Wahlin:** Chief of Injury Services, Workforce Safety & Insurance testified in favor of HB 1525. (See attached #1)

**Senator Kilzer:** How in depth did the interim committee go into subject?

**Tim Wahlin:** Every interim committee has discussed post retirement benefits. They did not go into the financials. That will take a significant amount of fiscal review.

**Senator Kilzer:** If you don't terminate the post injury benefits at time of retirement. Do you keep paying until death? When do you stop them?

**Tim Wahlin:** Indemnities will end at death. Benefits till death ended 97 indemnity payments, to extend for 10 years

**V. Chair Grindberg:** Does that assume that an individual can't work after age 65 or is that all cases?

**Tim Wahlin:** That would assumed that individual can't work beyond retirement. The benefits end at that point.

**V. Chair Grindberg:** There are instances where they are partially disabled. If someone lost arm two years before retirement and they received 2 years benefits. Then goes to work for Wal-Mart, would they be eligible for benefits then?

**Tim Wahlin:** No, if they go back to work in full capacity the benefits ends.

**Senator Christmann:** Does it matter if they are at high end or low end of Social Security?

**Tim Wahlin:** The SS retirement benefit under this formula is not taken into account.

**Sebald Vetter:** Labor Workforce, Bismarck testified in favor of HB 1525. (No written attached testimony)

In 1995, everyone was thrown off the system. In 97, the bill cuts you off a certain percentage. Now this has nothing to do with SS. You get 50% you lose your wages. What is Workmen's Comp doing with the extra money? When you're 65 and disabled, it's hard to find work. Minimum light duty work for injured workers, what is that? They took the money away from us. This bill should never been passed in the first place.

**Toni Weeks, former Great River Energy employee** testified in favor of HB 1525. No written testimony, but handed out attached - 2.

Anhydrous Ammonia accident - worked for 6 years after accident, uses prosthetic brace.

Had sick leave November 16, 2009 will be cut off from WSI.

**Chairman Holmberg:** This bill just authorizes WSI to study the issue for the next two years.

**LeRoy Volk, Mandan** testified in favor of HB 1525.

**V. Chair Grindberg moved Do Pass.**

**Senator Robinson seconded.**

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1**

**The bill goes back to the Industry, Business and Labor Committee and Senator Wanzek will carry the bill.**

Date: 3-17-09  
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1525

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Grindberg Seconded By Robinson

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson	✓	
Senator Fischer	✓		Senator Lindaas	✓	
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg	✓		Senator Mathern	E	
Senator Kilzer	✓				
V. Chair Grindberg	✓				

Total Yes 12 No 0

Absent 1

Floor Assignment 1B-L Wenzak

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

**REPORT OF STANDING COMMITTEE (410)**  
March 17, 2009 10:02 a.m.

**Module No: SR-48-5045**  
**Carrier: Wanzek**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1525, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1525 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1525



# Your Social Security Statement



Prepared especially for Wanda Worker

May 27, 2008

[www.socialsecurity.gov](http://www.socialsecurity.gov)

See inside for your personal information



WANDA WORKER  
456 ANYWHERE AVENUE  
MAINTOWN, USA 11111-1111

## What's inside...

<b>Your Estimated Benefits</b>	2
<b>Your Earnings Record</b>	3
<b>Some Facts About Social Security</b>	4
<b>If You Need More Information</b>	4
<b>To Request This Statement In Spanish</b> (Para Solicitar Una Declaración en Español)	4

## What Social Security Means To You

This *Social Security Statement* can help you plan for your financial future. It provides estimates of your Social Security benefits under current law and updates your latest reported earnings.

Please read this *Statement* carefully. If you see a mistake, please let us know. That's important because your benefits will be based on our record of your lifetime earnings. We recommend you keep a copy of your *Statement* with your financial records.

### Social Security is for people of all ages...

We're more than a retirement program. Social Security also can provide benefits if you become disabled and help support your family after you die.

### Work to build a secure future...

Social Security is the largest source of income for most elderly Americans today, but Social Security was never intended to be your only source of income when you retire. You also will need other savings, investments, pensions or retirement accounts to make sure you have enough money to live comfortably when you retire.

Saving and investing wisely are important not only for you and your family, but for the entire country. If you want to learn more about how and why to save, you should visit [www.mymoney.gov](http://www.mymoney.gov), a federal government website dedicated to teaching all Americans the basics of financial management.

### About Social Security's future...

Social Security is a compact between generations. For decades, America has kept the promise of security for its workers and their families. Now, however, the Social Security system is facing serious financial problems, and action is needed soon to make sure the system will be sound when today's younger workers are ready for retirement.

In 2017 we will begin paying more in benefits than we collect in taxes. Without changes, by 2041 the Social Security Trust Fund will be exhausted\* and there will be enough money to pay only about 78 cents for each dollar of scheduled benefits. We need to resolve these issues soon to make sure Social Security continues to provide a foundation of protection for future generations.

### Social Security on the Net...

Visit [www.socialsecurity.gov](http://www.socialsecurity.gov) on the Internet to learn more about Social Security. You can read our publications, use the *Social Security Benefit Calculators* to calculate future benefits or use our easy online forms to apply for benefits.

Michael J. Astrue  
Commissioner

\* These estimates are based on the intermediate assumptions from the Social Security Trustees' Annual Report to the Congress.

## Your Estimated Benefits

<b>*Retirement</b>	You have earned enough credits to qualify for benefits. At your current earnings rate, if you stop working and start receiving benefits...	
	At age 62, your payment would be about .....	\$ 1,018 a month
	If you continue working until...	
	your full retirement age (67 years), your payment would be about .....	\$ 1,476 a month
	age 70, your payment would be about .....	\$ 1,840 a month
<b>*Disability</b>	You have earned enough credits to qualify for benefits. If you became disabled right now, your payment would be about .....	\$ 1,350 a month
<b>*Family</b>	If you get retirement or disability benefits, your spouse and children also may qualify for benefits.	
<b>*Survivors</b>	You have earned enough credits for your family to receive survivors benefits. If you die this year, certain members of your family may qualify for the following benefits:	
	Your child .....	\$ 1,053 a month
	Your spouse who is caring for your child .....	\$ 1,053 a month
	Your spouse, if benefits start at full retirement age .....	\$ 1,405 a month
	Total family benefits cannot be more than .....	\$ 2,584 a month
	Your spouse or minor child may be eligible for a special one-time death benefit of \$255.	
<b>Medicare</b>	You have enough credits to qualify for Medicare at age 65. Even if you do not retire at age 65, be sure to contact Social Security three months before your 65th birthday to enroll in Medicare.	

**\* Your estimated benefits are based on current law. Congress has made changes to the law in the past and can do so at any time. The law governing benefit amounts may change because, by 2041, the payroll taxes collected will be enough to pay only about 78 percent of scheduled benefits.**

**We based your benefit estimates on these facts:**

Your date of birth (please verify your name on page 1 and this date of birth)..... April 5, 1967  
 Your estimated taxable earnings per year after 2007 ..... \$40,352  
 Your Social Security number (only the last four digits are shown to help prevent identity theft) ..... XXX-XX-1234

## How Your Benefits Are Estimated

To qualify for benefits, you earn "credits" through your work — up to four each year. This year, for example, you earn one credit for each \$1,050 of wages or self-employment income. When you've earned \$4,200, you've earned your four credits for the year. Most people

need 40 credits, earned over their working lifetime, to receive retirement benefits. For disability and survivors benefits, young people need fewer credits to be eligible.

We checked your records to see whether you have earned enough credits to qualify for benefits. If you haven't earned enough yet to qualify for any type of benefit, we can't give you a benefit estimate now. If you continue to work, we'll give you an estimate when you do qualify.

**What we assumed** — If you have enough work credits, we estimated your benefit amounts using your average earnings over your working lifetime. For 2008 and later (up to retirement age), we assumed you'll continue to work and make about the same as you did in 2006 or 2007. We also included credits we assumed you earned last year and this year.

Generally, estimates for older workers are more accurate than those for younger workers because they're based on a longer earnings history with fewer uncertainties such as earnings fluctuations and future law changes.

We can't provide your actual benefit amount until you apply for benefits. And that amount may differ from the estimates stated above because:

- (1) Your earnings may increase or decrease in the future.
- (2) After you start receiving benefits, they will be adjusted for cost-of-living increases.
- (3) Your estimated benefits are based on current law. The law governing benefit amounts may change.

- (4) Your benefit amount may be affected by military service, railroad employment or pensions earned through work on which you did not pay Social Security tax. Following are two specific instances. You can also visit [www.socialsecurity.gov/mystatement](http://www.socialsecurity.gov/mystatement) to see whether your Social Security benefit amount will be affected.

**Windfall Elimination Provision (WEP)** — In the future, if you receive a pension from employment in which you do not pay Social Security taxes, such as some federal, state or local government work, some nonprofit organizations or foreign employment, and you also qualify for your own Social Security retirement or disability benefit, your Social Security benefit may be reduced, but not eliminated, by WEP. The amount of the reduction, if any, depends on your earnings and number of years in jobs in which you paid Social Security taxes, and the year you are age 62 or become disabled. For more information, please see *Windfall Elimination Provision* (Publication No. 05-10045) at [www.socialsecurity.gov/IVEP](http://www.socialsecurity.gov/IVEP).

**Government Pension Offset (GPO)** — If you receive a pension based on federal, state or local government work in which you did not pay Social Security taxes and you qualify, now or in the future, for Social Security benefits as a current or former spouse, widow or widower, you are likely to be affected by GPO. If GPO applies, your Social Security benefit will be reduced by an amount equal to two-thirds of your government pension, and could be reduced to zero. Even if your benefit is reduced to zero, you will be eligible for Medicare at age 65 on your spouse's record. To learn more, please see *Government Pension Offset* (Publication No. 05-10007) at [www.socialsecurity.gov/GPO](http://www.socialsecurity.gov/GPO).

# Your Earnings Record

Years You Worked	Your Taxed Social Security Earnings	Your Taxed Medicare Earnings
1983	560	560
1984	1,358	1,358
1985	2,312	2,312
1986	3,756	3,756
1987	5,241	5,241
1988	6,530	6,530
1989	8,074	8,074
1990	10,416	10,416
1991	12,665	12,665
1992	14,921	14,921
1993	16,448	16,448
1994	18,156	18,156
1995	20,054	20,054
1996	22,049	22,049
1997	24,213	24,213
1998	26,267	26,267
1999	28,452	28,452
2000	30,674	30,674
2001	31,991	31,991
2002	32,863	32,863
2003	34,191	34,191
2004	36,288	36,288
2005	38,097	38,097
2006	40,352	40,352
2007	Not yet recorded	Not yet recorded

You and your family may be eligible for valuable benefits:

When you die, your family may be eligible to receive survivors benefits.

Social Security may help you if you become disabled—even at a young age.

A young person who has worked and paid Social Security taxes in as few as two years can be eligible for disability benefits.

Social Security credits you earn move with you from job to job throughout your career.

**Total Social Security and Medicare taxes paid over your working career through the last year reported on the chart above:**

Estimated taxes paid for Social Security:

Estimated taxes paid for Medicare:

You paid:

\$28,795

You paid:

\$6,751

Your employers paid:

\$28,795

Your employers paid:

\$6,751

**Note:** You currently pay 6.2 percent of your salary, up to \$102,000, in Social Security taxes and 1.45 percent in Medicare taxes on your entire salary. Your employer also pays 6.2 percent in Social Security taxes and 1.45 percent in Medicare taxes for you. If you are self-employed, you pay the combined employee and employer amount of 12.4 percent in Social Security taxes and 2.9 percent in Medicare taxes on your net earnings.

## Help Us Keep Your Earnings Record Accurate

You, your employer and Social Security share responsibility for the accuracy of your earnings record. Since you began working, we recorded your reported earnings under your name and Social Security number. We have updated your record each time your employer (or you, if you're self-employed) reported your earnings.

Remember, it's your earnings, not the amount of taxes you paid or the number of credits you've earned, that determine your benefit amount. When we figure that amount, we base it on your average earnings over your lifetime. If our records are wrong, you may not receive all the benefits to which you're entitled.

Review this chart carefully using your own records to make sure our information is correct and that we've recorded each year you worked. You're the only person who can look at the earnings chart and know whether it is complete and correct.

Some or all of your earnings from last year may not be shown on your *Statement*. It could be that we still

were processing last year's earnings reports when your *Statement* was prepared. Your complete earnings for last year will be shown on next year's *Statement*. **Note:** If you worked for more than one employer during any year, or if you had both earnings and self-employment income, we combined your earnings for the year.

**There's a limit on the amount of earnings on which you pay Social Security taxes each year.** The limit increases yearly. Earnings above the limit will not appear on your earnings chart as Social Security earnings. (For Medicare taxes, the maximum earnings amount began rising in 1991. Since 1994, all of your earnings are taxed for Medicare.)

**Call us right away at 1-800-772-1213 (7 a.m.–7 p.m. your local time)** if any earnings for years before last year are shown incorrectly. Please have your W-2 or tax return for those years available. (If you live outside the U.S., follow the directions at the bottom of page 4.)

# Some Facts About Social Security

## About Social Security and Medicare...

Social Security pays retirement, disability, family and survivors benefits. Medicare, a separate program run by the Centers for Medicare & Medicaid Services, helps pay for inpatient hospital care, nursing care, doctors' fees, drugs, and other medical services and supplies to people age 65 and older, as well as to people who have been receiving Social Security disability benefits for two years or more. Medicare does not pay for long-term care, so you may want to consider options for private insurance. Your Social Security covered earnings qualify you for both programs. For more information about Medicare, visit [www.medicare.gov](http://www.medicare.gov) or call 1-800-633-4227 (TTY 1-877-486-2048 if you are deaf or hard of hearing).

**Retirement** — If you were born before 1938, your full retirement age is 65. Because of a 1983 change in the law, the full retirement age will increase gradually to 67 for people born in 1960 and later.

Some people retire before their full retirement age. You can retire as early as 62 and take benefits at a reduced rate. If you work after your full retirement age, you can receive higher benefits because of additional earnings and credits for delayed retirement.

**Disability** — If you become disabled before full retirement age, you can receive disability benefits after six months if you have:

- enough credits from earnings (depending on your age, you must have earned six to 20 of your credits in the three to 10 years before you became disabled); and
- a physical or mental impairment that's expected to prevent you from doing "substantial" work for a year or more or result in death.

If you are filing for disability benefits, please let us know if you are on active military duty or are a recently discharged veteran, so that we can handle your claim more quickly.

**Family** — If you're eligible for disability or retirement benefits, your current or divorced spouse, minor children or adult children disabled before age 22 also may receive benefits. Each may qualify for up to about 50 percent of your benefit amount.

**Survivors** — When you die, certain members of your family may be eligible for benefits:

- your spouse age 60 or older (50 or older if disabled, or any age if caring for your children younger than age 16); and
- your children if unmarried and younger than age 18, still in school and younger than 19 years old, or adult children disabled before age 22.

If you are divorced, your ex-spouse could be eligible for a widow's or widower's benefit on your record when you die.

**Extra Help with Medicare** — If you know someone who is on Medicare and has limited income and resources, extra help is available for prescription drug costs. The extra help can help pay the monthly premiums, annual deductibles and prescription co-payments. To learn more or to apply, visit [www.socialsecurity.gov](http://www.socialsecurity.gov) or call 1-800-772-1213 (TTY 1-800-325-0778).

## Receive benefits and still work...

You can work and still get retirement or survivors benefits. If you're younger than your full retirement age, there are limits on how much you can earn without affecting your benefit amount. When you apply for benefits, we'll tell you what the limits are and whether work would affect your monthly benefits. When you reach full retirement age, the earnings limits no longer apply.

## Before you decide to retire...

Carefully consider the advantages and disadvantages of early retirement. If you choose to receive benefits before you reach full retirement age, your monthly benefits will be permanently reduced.

To help you decide the best time to retire, we offer a free booklet, *Social Security — Retirement Benefits* (Publication No. 05-10035), that provides specific information about retirement. You can calculate future retirement benefits on our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) by using the *Social Security Benefit Calculators*.

Other helpful free publications include:

- *Understanding The Benefits* (No. 05-10024)
- *Your Retirement Benefit: How It Is Figured* (No. 05-10070)
- *Windfall Elimination Provision* (No. 05-10045)
- *Government Pension Offset* (No. 05-10007)
- *Identity Theft And Your Social Security Number* (No. 05-10064)

We also have other leaflets and fact sheets with information about specific topics such as military service, self-employment or foreign employment. You can request Social Security publications at our website, [www.socialsecurity.gov](http://www.socialsecurity.gov), or by calling us at 1-800-772-1213. Our website has a list of frequently asked questions that may answer questions you have. We have easy-to-use online applications for benefits that can save you a telephone call or a trip to a field office.

You may also qualify for government benefits outside of Social Security. For more information on these benefits, visit [www.govbenefits.gov](http://www.govbenefits.gov).

If you need more information—Visit [www.socialsecurity.gov/mystatement](http://www.socialsecurity.gov/mystatement) on the Internet, contact any Social Security office, call 1-800-772-1213 or write to Social Security Administration, Office of Earnings Operations, P.O. Box 33026, Baltimore, MD 21290-3026. If you're deaf or hard of hearing, call TTY 1-800-325-0778. If you have questions about your personal information, you must provide your complete Social Security number. If your address is incorrect on this *Statement*, ask the Internal Revenue Service to send you a Form 8822. We don't keep your address if you're not receiving Social Security benefits.

Para solicitar una *Declaración* en español, llame al 1-800-772-1213

## REMARKS FOR IBL COMMITTEE re HB 1525

Sylvan Loegering, Volunteer Coordinator, ND Injured Workers Support Group

Society's concept of a "normal" lifestyle changes periodically as needs, opportunities and preferences change. Many years ago people expected to work till they died or could no longer physically work. Then it became the norm for people to quit work and retire when they reached Social Security retirement age, if not sooner. Today, the trend is that more and more people are working, sometimes for many years, after they begin collecting Social Security Retirement benefits. The reasons are multiple and include generally better health, longer life spans, or a desire to have a more comfortable life compared to just a few years ago. Sometime it is simply a desire to avoid inactivity. Other factors are little or no retirement savings, inflation and a need to earn, especially as our economy is struggling. To put it briefly, **many people no longer expect to quit working when they reach so-called retirement age.**

The point I'd like to consider first today is what happens to those people who need to keep working for financial reasons when they reach SSR age but are unable to do so because they are totally disabled from a work-related injury. As I understand present ND law, if a person is receiving disability benefits, those benefits cease at SSR age and instead the individual can receive Additional Benefits Payable. I'd like to consider for a moment in real terms what those ABP's amount to. For example if an employee was earning \$510 per week and is totally disabled in a work-related incident the disability benefit at 66-2/3 % would be \$340. Here are examples of what the ABP would be every 28 days depending on how long the worker was receiving Permanent Total Disability benefits from WSI:

3 years = \$34    7 years = \$68    11 years \$111    20 years (the maximum possible) = \$170

As this committee has discussed recently, living expenses don't go down just because age goes up. A healthy individual who is receiving Social Security disability can choose to supplement it by working and many people do. However a totally disabled person who is unable to work and forced to live on SSR and ABP alone will probably end up on some type of financial aid simply because he or she was injured on the job. This is degrading to the individual and expensive for society.

On the other hand, an individual who is working and earning after SSR age who is hurt on the job can not receive any disability benefits, rehabilitation benefits or supplementary benefits. This can hardly be considered sure and certain relief for an injury in hazardous employment. This person's life just went to pieces simply because he or she was injured on the job.

For all the above reasons I ask you to pass HB 1525.

November 7, 2008

H. B. 1525

RE: Gerald Volk

Claim #

This letter is in response to receiving notices of denying benefits from February 23, 2006 to present day.

Dear

On February 23, 2006, at Geo. E Haggart Inc shop, 3:30 PM, the following took place:

I was air pressure testing the tires on a bulk-fuel truck. I was on my knees, with my left arm leaning against the tire, the tire stem was located on the bottom. Upon testing the driver's side front, after adding air, I rechecked the pressure, I noticed the rim of the tire moving, the tire then exploded, sending myself in the air up against an a-frame hoist. My two co-workers were at the opposite end of the shop when the explosion occurred. My co-worker found me unconscious and called 911. When the ambulance arrived, I had regained consciousness. I couldn't move my left arm, I couldn't breathe; I had severe chest pains, I couldn't move my right leg, and I couldn't hear. The ambulance transported me to Meritcare ER, located on Broadway & 7<sup>th</sup> Av in Fargo.

Upon admittance, I had to have a splenectomy, to cease the bleeding. I had 8 fractured ribs (in two places), a punctured lung, and a head concussion. I was put into a drug induced-coma for approximately 6 weeks. I then left the ICU (I don't recall this), to a rehab room for approximately 3 weeks, when I noticed problems from my injuries: severe headaches, blurred vision, extreme pressure behind my right ear, numbness on my entire right side. These problems continued after my release from the hospital. In addition, I had severe pain and drainage from my incision. The scar tissue from my incision made it extremely difficult to perform daily tasks; driving was next to impossible; the sitting position was the worst.

On May 3, 2006, I was released from the hospital. On May 8, Nadine contacted John<sup>1</sup> at Haggart Construction and discussed my future with him; possible retirement when I am 62; I had no knowledge of this conversation. Now, it seems at this point, Nadine at WSI is deciding my future without any input from me, as clearly stated in the document from WSI, notepad date-05/08/2006.

Upon coming home, I then started to receive letters of denial that pertained to this accident from WSI. WSI rejected claims for my head injuries (vision and hearing), and my knees and shoulders. I then spoke to my case manager, Nadene Lenz; she told me to call Paula H. During my phone conversation with Paula, I asked her why every single claim I had was denied. Paula's answer was, "This is standard procedure and it's the law" with a hearty laugh. I never did understand what "The law" was about, due to the fact it was changed constantly, several times.

On June 6<sup>th</sup>, I received a letter from Paula H., stating that vocational rehabilitation may be beneficial to me. At this time, I was in no shape for any kind of rehab; I was extremely weak, I had lost 30 lbs of weight, it was very hard to climb stairs, as well as getting in and out of a

vehicle. One month after my discharge, Dr. Lindquist said it would now be okay to drive a vehicle. I was so weak, that I had to use a six inch crescent wrench on the ignition key to start my vehicle. My incision from my surgery was bleeding and draining, therefore, this made it extremely hard to sit and drive, for any amount of time.

Paula H. hired Corvel Cooperation to start vocation and rehabilitation. During my first meeting with Mary Jo, my incision started to drain and bleed. Mary Jo then ended the interview and asked me "What on earth are you doing here in this condition?" She also asked if she could drive me home. During this period of time, I was in severe pain constantly and in no physical and mental state of mind ready to get back to work; the only consideration I received from Paula H. was how soon I could get back to work.. On June 20, after 2 days in bed, my wife took me to the ER with problems from my incision, which, in turn, WSI, Paula H had denied the claim for this incident, stating that it "wasn't work related".

When I was in the ICU for 6 weeks and without a clue to what was going on, WSI failed to contact the co-workers that witnessed the accident, who could have explained exactly what happened. I felt at this time, because of this, WSI took advantage of me. My head trauma kept me from making decisions regarding these denials from WSI. My wife, DeLilah, was not sure how to properly handle these matters, which left us with no other choice, but to hire an attorney( ); which made us feel at ease. This feeling, would only be temporary.

The unprofessionalism of WSI would not copy my attorney when the denials were sent to me. This is when the anxiety started all over again, resulting in medications to treat my severe anxiety and migraine headaches and insomnia. At this period of time, when I was very vulnerable, WSI took advantage of me.

I feel that the severity of my accident was incorrectly categorized.

1. Paula H. At WSI reported that I was repairing a TRACTOR tire, and STANDING in front of it. This is completely inaccurate. The tire was attached to a TRUCK, (NOT a tractor), as I was AIRING it up, (NOT repairing it), on my KNEES, (NOT standing in front of it).
2. The point of impact was on my left arm, between the elbow and shoulder, and all claims regarding this injury were denied as well as my knee, eyes, and shoulders injuries were denied at that time; all due to inaccurate reporting from WSI..
3. I feel what WSI has put me through, is above and beyond anybody's capacity to handle a matter such as this. Is this the nature of how WSI handles cases, or am I an exception??
4. After endless letters(from collection agencies) and phone calls from Meritcare demanding payment from the bills that were originally denied from WSI, WSI has finally accepted and paid most of these bills after an unusually long period of time.
5. WSI has notified me that upon my 66<sup>th</sup> Birthday, all my weekly benefits will be terminated. Since I am totally disabled, I still cannot work. This is unacceptable.

6. Due to WSI's lack of cooperation, consideration, and giving out misinformation, I feel WSI's professionalism and decisions are questionable. I also question why there is no "grading" of injuries-mild, moderate, severe; how can they possibly lump all injuries into one category, from severe to "Monday morning" claims?

Sincerely yours,

*Paul J. Volk*



**2009 House Bill No. 1525**  
**Testimony before the House, Industry, Business and Labor Committee**  
**Presented by: Jodi Bjornson, General Counsel**  
**Workforce Safety and Insurance**  
**January 28, 2009**

Mr. Chairman and Members of the Committee:

My name is Jodi Bjornson and I am General Counsel with Workforce Safety and Insurance (WSI). On behalf of WSI and its Board of Directors, I am here to testify in opposition to HB 1525. This bill proposes to eliminate the retirement presumption, the additional benefits payable statutes, and the three year cap on benefits for those injured in their post-retirement years. In effect, the pre-1995 retirement presumption law would be reinstated.

In 1995 and 1997, the Legislative Assembly amended the retirement presumption statute and the enacted the additional benefit payable statute to clearly provide that wage loss benefits ended for all injured workers when they began receiving Social Security Retirement benefits, or when they reached retirement age and were eligible to receive Social Security Retirement benefits.

The 1995 legislation was in accordance with the basic purposes of workers' compensation. A primary function of workers' compensation systems is to pay benefits partially compensating for wage loss as a result of work injuries. This is a wage replacement benefit. Wage loss benefits and retirement benefits have different and inconsistent purposes: wage loss benefits are paid to workers who are physically unable to earn wages during their earning years, while retirement benefits are paid to workers after their wage earning years have come to an end, regardless of their physical condition.

In 1995, at the end of the debate that took place with respect to workers' compensation benefits and their interplay with retirement benefits, it was the conclusion of the

Legislative Assembly for WSI to serve the role as a wage replacement benefit system, not a retirement benefit system.

To temper the impact to injured workers who were unable to work due to their work injuries, an additional benefit payable statute was created in 1997. This benefit was founded on three basic principles: it begins when wage loss benefits end, it is paid for the same length of time as the worker had been unable to work; and the longer the worker had been unable to work, the higher the post-retirement benefit payment.

WSI submits the current law strikes a good balance that provides wage loss benefits until the time of retirement, and then an additional benefit payable (post-retirement benefit) based on the length of time the worker has been unable to work. In addition, the injured worker continues to be eligible for medical benefits and permanent partial impairment awards for the life of the injury.

Eliminating the retirement presumption law and additional benefit payment law as it exists today, and resurrecting the pre-1995 retirement presumption law would have a significant impact on the fund. Our actuary estimates the reserve level increase for known claims will likely fall in a range between \$20 million and \$27 million. To the extent additional claims emerge; the cost estimates could be potentially double of the known claim estimate.

In addition, the proposed legislation will serve to increase the costs associated with future claims. The premium rate level increase associated with the elimination of the retirement presumption and the additional benefit payable statutes is anticipated to be between 2.5% to 3.5%, or likely more than \$4.0 million per year.

This concludes my testimony.

**WORKFORCE SAFETY & INSURANCE**  
**2009 LEGISLATION**  
**SUMMARY OF ACTUARIAL INFORMATION**

**BILL NO: HB 1525**

**BILL DESCRIPTION: Retirement Presumption and Additional Benefit**

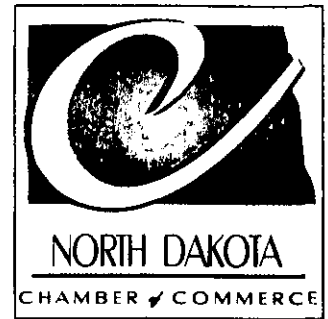
**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation effectively eliminates the retirement presumption effective for post-1995 claims. Under this proposal, claimants will continue receiving wage-loss benefits even after they become eligible for social security retirement benefits. The proposed bill also eliminates the three year cap on disability benefits for employees injured after they become eligible for social security retirement benefits. The proposed bill repeals the additional benefit payable statutes.

**Reserve Level Impact:** The reserve level impact of the current proposal will be limited to fiscal accident years 1995-96 and subsequent. The total reserve level increase for known claims will likely fall in a range between \$20 million and \$27 million. To the extent additional claims emerge; the cost estimates could be higher potentially double of the known claim estimate.

**Rate Level Impact:** The proposed legislation will serve to increase the costs associated with future claims. The premium rate level increase associated with the elimination of the retirement presumptions is anticipated to be between 2.5% to 3.5%, likely more than \$4.0 million per year.

**DATE: January 28, 2009**



Testimony of Bill Shalhoob  
North Dakota Chamber of Commerce  
HB 1525  
January 28, 2009

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical 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 representing seven local chambers with total membership over 7,000 members and ten employer associations. A list of those associations is attached. As a group we stand in opposition to HB 1525 and urge a do not pass from the committee on this bill.

HB 1525 does several things which are troubling, including eliminating the current presumption of retirement at the time of retirement eligibility, the complete elimination of retirement for an employee who is permanently and totally disabled and the repeal of the additional paid benefits statutes. This would mean claimants who meet these criteria would be able to continue payments at pre-retirement levels. As we testified yesterday, WSI benefits were and are intended to be worker's comp insurance. Making this change converts them to a retirement product like an IRA, 401 K or annuity. That is not a change we should make. Yesterday you also heard a bill aimed at addressing a segment of workers whose injury occurred between 1989 and 1995. By changing the ADP and retirement rules today we will be exacerbating that problem, creating a new class with an even larger disparity who fall between 1995 and 2009. This is a policy change that is ill advised at this or any other time.

Thank you for the opportunity to appear before you today in opposition to HB 1525. I would be happy to answer any questions.

*THE VOICE of NORTH DAKOTA BUSINESS*

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REMARKS FOR IBL re 1525  
Sylvan Loegering, NDIWSG, March 4, 2009

The study ordered by this bill is based on a faulty premise. The bill assumes that the correct way to provide sure and certain relief is to discontinue regular disability benefits and replace them with additional benefits payable for a limited time when a disabled worker reaches social security age. I won't repeat all of the points that have been made recently regarding needy individuals who are disabled shortly before they attain retirement age. I'll simply offer an amendment that would expand the scope of this study to include looking at other options.

I understand from a politics view, that adding this amendment may prevent passage of this bill. If that happens, my opinion is that it would simply save the money and resources that would otherwise have been spent on a study that won't answer the appropriate question.

I support this bill with this amendment. Without the amendment my position quickly becomes neutral.

PROPOSED AMENDMENT (~~Items to be overstruck are printed in red.~~)

Lines 4 - 7

During the 2009-10 interim, workforce safety and insurance shall study ~~the additional benefits payable structure that comprises the post-retirement options~~ for benefits available to an individual ~~whose disability benefits end~~ who is receiving disability benefits at the time of social security retirement eligibility.



Testimony of Bill Shalhoob  
North Dakota Chamber of Commerce  
HB 1525  
March 4, 2009

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical 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 representing seven local chambers with total membership over 7,000 members and ten employer associations. A list of those associations is attached. As a group we stand in support of HB 1525 and urge a do pass from the committee on this bill.

While we continue to have reservations about the portion of the WSI benefit package that deals with ABP's because they function more as a retirement product than a workers comp benefit, we understand the policy decision has been made by the legislature regarding their appropriateness. We heard a number of bills in both houses that tried to address the problem and it became clear to us that a study is needed in this area of benefits to exactly what changes are warranted at what benefit level to achieve the balance the legislature desires for this benefit.

Thank you for the opportunity to appear before you today support of HB 1525. I would be happy to answer any questions.

*THE VOICE OF NORTH DAKOTA BUSINESS*

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1. WSI's reduction in TTD benefits when an injured worker reaches retirement age amounts to age discrimination.
2. Workers were forced to give up their right to sue their employers in exchange for "sure and certain relief." Under current law, injured workers receive anywhere from 3% to 33% of their pre-injury wage in wage loss benefits. That's simply not fair. If, as the North Dakota Supreme Court has said, fairness is the hallmark of due process, current law doesn't provide injured workers with due process.
3. WSI has enough money to refund over \$100 million to employers who already pay the lowest workers compensation premiums in the nation. Restoring full benefits to injured workers who reach retirement age wouldn't have to increase premiums one red cent.

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**Engrossed 2009 House Bill No. 1525**  
**Testimony before the Senate Appropriations Committee**  
**Presented by: Tim Wahlin, Chief of Injury Services**  
**Workforce Safety & Insurance**  
**March 17, 2009**

Mr. Chairman, Members of the Committee:

My name is Tim Wahlin, Chief of Injury Services with WSI. I am here on behalf of WSI to testify in support of Engrossed HB 1525 and to provide information to the Committee to assist in making its determination. WSI's Board of Directors supports this bill.

Engrossed HB 1525 provides that WSI will, during the 2009-10 interim, undertake a study of North Dakota's post-retirement benefit system.

Currently, North Dakota law provides that claims for indemnity benefits (wage loss replacement benefits) end at an injured employee's date of presumed retirement. Presumed retirement is the date upon which an injured employee becomes fully vested to receive social security retirement benefits. On this presumed retirement date, an injured employee's indemnity benefit converts to an Additional Benefit Payable (ABP), or post retirement benefits.

The amount of ABP benefits is dependent both upon the length of pre-retirement disability as well as the level of pre-retirement benefits paid. The longer the disability period prior to retirement eligibility, the higher the percentage for post-retirement ABP benefit amounts. Attached you will find a matrix describing the current ABP benefit schedule which may aid in this explanation.

We estimate the cost of the study will be approximately \$50,000, and are requesting this amount be incorporated into WSI's appropriation bill, HB 1021.



WSI would respectfully request this committee to vote "do pass" on Engrossed HB 1525.

This concludes my testimony. I would be happy to answer any questions at this time.

## NDCC 65-05-09.4--Additional Benefit Payble (Post-Retirement Benefit)

Pre-Retirement Eligibility Disability Period	ABP Benefit Amount	ABP Benefit Duration
At least 1 year and less than 3 years of disability	5 percent of weekly benefit	Equals pre-retirement disability period
At least 3 years and less than 5 years of disability	10 percent of weekly benefit	Equals pre-retirement disability period
At least 5 years and less than 7 years of disability	15 percent of weekly benefit	Equals pre-retirement disability period
At least 7 years and less than 9 years of disability	20 percent of weekly benefit	Equals pre-retirement disability period
At least 9 years and less than 11 years of disability	25 percent of weekly benefit	Equals pre-retirement disability period
At least 11 years and less than 13 years of disability	30 percent of weekly benefit	Equals pre-retirement disability period
At least 13 years and less than 15 years of disability	35 percent of weekly benefit	Equals pre-retirement disability period
At least 15 years and less than 17 years of disability	40 percent of weekly benefit	Equals pre-retirement disability period
At least 17 years and less than 20 years of disability	45 percent of weekly benefit	Equals pre-retirement disability period
Twenty or more years of disability	50 percent of weekly benefit	Equals pre-retirement disability period
Catastrophic Injuries	100 percent of weekly benefit	Lifetime