

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1120

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1120

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-17-05

Tape Number	Side A	Side B	Meter #
2	x		21.3--end
2		x	00.--end

Committee Clerk Signature



Minutes: **Chair Keiser:** Let's open the hearing on HB 1120. Rep. Kasper to you.

**Rep. Kasper, Dist. 46:** WSI asked me to introduce this bill. This bill is addressing four areas.

Definition of child, scholarships, communications with employers, and the confidentiality of social security numbers and their use. With that, I'd like to turn it over to the WSI representative. While we're waiting for the WSI representative to come up, I'm handing out an amendment to HB 1120. I think this amendment is primarily technical in nature but I want the committee to have it should they have any questions.

**Rob Forward, staff counsel, Workforce Safety,** testified in support of HB 1120. (Testimony attached.) In this bill WSI proposes to change the statutory definitions on child and grandchild, requests an increase in the amount it may award in scholarships, and proposes to grant medical providers the authority to communicate with employers. Section 1: This section of the bill changes the definition of child so that only children dependent on an injured worker for support are considered when an injured worker is eligible to receive the existing dependency allowance

for each child. The suggested changes would require additional proof of dependency through an appropriate court order or income tax return to confirm dependency status. Section 1 of this bill also removes the definition of grandchild. This definition is no longer used in our worker's compensation law and is not tied to any type of benefit. Section 1 also revises the definition of rehabilitation services and this was inadvertently placed in this bill and actually coincides with the changes proposed in HB 1171. We recommend the proposed change remain in this bill 1120. If 1120 were to pass and 1171 were not, we would work on that with Legislative Council.

Section 3. This addresses scholarship increases for spouses and children for workers killed on the job as well as for injured workers with exceptional circumstances. When originally filed, this section would have increased the maximum total amount that could be awarded annually from WSI scholarship funds from \$150,000 to \$200,000 and increase the maximum yearly amount per individual from \$3000 to \$4000. (See Attachment.)

**Rep. Ekstrom:** On page 9, line 47, you have taken out the words "on the job training." What is the rationale behind that?

**Forward:** That is the definition of rehabilitation services that I spoke of earlier. That coincides with the changes in HB 1171. As I indicated earlier if 1171 does not pass we would make the appropriate change here and "on the job training" would stay in this statute.

**Rep. Ekstrom:** On page 11 dealing with scholarships for special circumstances--would that be retroactive?

**Forward:** Absolutely.

**Rep. Ekstrom:** Page 11, line 28, this is a bone of contention that I've had for a long time, "including prior and subsequent prognosis reports." This is the whole area of pre existing

conditions and just stating in terms of legislative intent, that would be prorated over the situation?

**Forward:** It is my understanding that is correct and anything that would effect our adjudication of that workplace injury.

**Rep. Ekstrom:** Page 12, we would be putting the employer into the loop--conversations between the Health care provider, WSI and the employer. I have difficulties with this as I stated in the previous bill. The employability of the injured worker in the future may be tainted by the communication. Do you see that could conceivably be a problem?

**Forward:** That could be a concern. What we look at is that the communication between the employer and treating physician and the good that can come from that far outweighs concerns of any improper thoughts or comments that may come from the employer to the doctor and vice versa. As I pointed out, we are here for the injured worker. What we are looking at is help from the doctors talking to the employers about modified positions. When you look at it from terms of safety, it's very important that the injured worker have a workplace that very safe for them if they're in a modified position.

**Rep. Ekstrom:** Then I request that we narrow the language in terms of exactly what those communications can be about. Medical privacy is a huge issue here. Again on page 12 with regard to social security numbers, we heard last week in an overview that they are now going to use the DMV assigned numbers instead of SSN. Have you investigated that idea?

**Forward:** No, I don't believe we have. This legislation is driven by our interaction with the medical community. They are behind us in technology and the way they do business. SSN are the verifiers they use along with birth dates. The medical providers already have these numbers.

We are not disclosing anything that they don't already have. In most cases, they've got it long before we do. Until the medical community gets caught up with the rest of us, we're asking for this.

**Rep. Kasper:** Can you share with us your request here to allow the employer to receive medical information directly without going through WSI? Under what circumstances would that be utilized and why do you want to eliminate you as the middle man if the claim revolves around WSI and what you do?

**Forward:** It's better to have the communications between the physicians and the employers because you are looking at situations where a person is being released to return to work in a modified position. It's also a time issue.

**Rep. Kasper:** If that's the case, when do you get notified of what the doctor wrote and based upon how you've been working with the injured worker, would there ever be any cases where your people might disagree with what the doctor says?

**Forward:** It's rare, but it could happen. We would have copies of whatever the doctor communicated to the employer the same as we normally would. If there is a disagreement that would most likely come between the injured worker and the doctor in what they can and cannot do.

**Rep. Kasper:** Why would the doctor want that liability. Wouldn't the doctor want to give you that report and you issue the report.

**Forward:** No. This statute insulates them from civil liability. I would venture to guess that most of our treating physicians would love to cut WSI out of that communication process

because they have a concern that their recommendations aren't followed correctly. There is also a time issue.

**Rep. Amerman:** On page 11 you are only adding two words and then try to get the intent of what this means. This thing is wide open. What's even more wide open is when you add the priors. There's a possibility that an employer could come up with more information than the spouse has. Here you can find out anything. Is that correct?

**Forward:** Yes, but you have to remember that in our claims process when they sign their initial claim form they release all their information to WSI. What it clarifies for the doctor is that they can talk to WSI about that information. We're crafting our medical records request around specific injuries.

**Chairman Keiser:** Before you sit down, Rob, would you talk about the amendments and what they do.

**Forward:** The first amendment refers to the scholarship portion. We're changing the total annual limits to \$350,000. The next portion speaks to exceptional circumstances for injured workers. They can receive scholarships. Currently the limit is \$3000 per year and what we are asking is to raise that to \$10,000 per year for five years. The second amendment deals with the average weekly wage definition we're asking that include coverage that is provided. The second part of the change inserts an average in the computation for the self employed.

**Chairman Keiser:** A technical point. WSI by statute is required to provide a fiscal note with your amendment that changes the fiscal note. You will have to resubmit unless you have already.

**Forward:** I cannot answer that, someone from our office will get you that.

**Chairman Keiser:** Any time you put in an amendment that changes the dollar value, you need to update the fiscal note.

**Dave MacIver, president, ND Chamber of Commerce, representing a coalition of 17 different chambers across the state,** testified in favor of the bill. We have not seen the amendments so we would like to take a look at those but overall, we like the looks of the bill itself. We think it's a good idea to raise the scholarship money is a good idea. All of us that have had children in college know that \$2000 a year isn't going to cut it. The technical portions of it can be ironed out, but overall the more that we can get the injured worker communicating with the employer and get that information to the employer about what they can and cannot do, it's just good business. It helps the injured worker get back to work which helps all of us.

**Rep. Ekstrom:** Would you object to limiting the scope of the conversation between the doctor and the employer?

**MacIver:** I'd like to see the wording on that before I make a statement, but probably not.

**Rep. Amerman:** The medical provider say the worker can come back to work for X amount of time, this makes it easier for the employer get the person back to work. I can see your point there. Do you think the employer should have knowledge of prior medical things? Why would the employer need or want carte blanc to look up anything in someone's medical record.

**MacIver:** The employer should have the ability to see what he's dealing with. If he has something that may put someone else in his operation at risk. If we have a potential of risk there are instances when that would be appropriate.

**Sebald Vetter, CAAE,** testified in opposition to the bill. I think this is wrong. Social Security numbers should not be used by anyone but the medical profession. Other than that as far as the



premiums going up for scholarships and all that, I go for it. I do not go for the Social Security deal.

**Rep. Amerman:** If claimants get a claim number for Worker's Comp and is that claim number given to medical providers so they can know who they're talking about anyway. Is that the way that works. I'm trying to understand if they already have the means why are we doing this.

**Vetter:** They've got the social security number the minute you injured. We feel it's not fair to use it for anything. They know already what your situation is and they dig more up that's not related to you. No. We know how Workman's Comp works. They're out there to destroy you all the way.

**Rep. Kasper:** When an employee goes to work they have to provide a social security number on their W-4. When Workman's Comp has a claim they need the SSN so they can have the right person. The doctor has the SSN. So all this says is that the people can talk back and forth and use the SSN to handle the claim and it doesn't go beyond that. This just clarifies that.

**Vetter:** It can beyond that. It's not the doctor's duty to talk to the employer. Why do we have all them people at Workman's Comp. Why should the doctor get involved in it yet. It's not the doctor's duty to go out and look for you a job. It's his duty to treat you. We pay Workman's Comp to do that.

**Forward:** Think of this as computers talking to each other. If we use the SSN as a verifier it will go faster. Right now we use names and birthrates.

**Dan Zinneman,** testified in opposition to the bill. WC has made a clam that they cannot process claims as fast, then you ask them whey they spend the million dollars on these high tech computers to speed up the process. We asked them to do what may insurance companies do.

Give you a card with your claim number on it. The federal privacy act of 1978 very clearly states that you cannot release that without an individual's signature. They are asking for more authority than the federal government. They also say they are incompetent in doing their work because they cannot communicate with the doctor. They didn't have any problem communicating with my doctor. My employer went out of business so how can they talk to the employer. This is just another strategy for them to get another foothold in your life and try to use whatever they can against you. When I got injured I had no problem with my employer. My biggest problem was Worker's Comp. How can we violate federal law because Worker's Comp wants us to.

**Rep. Thorpe:** Your concern is the SSN showing up in more computers.

**Zinneman:** That's true. Identity theft is at its peak.

**Deb Bale, injured worker, Jamestown,** testified in opposition to the bill. My concern is the SSN. I see no reason for it. While I was working as an injured RN I gave my employer copies of everything. I'm puzzled as to why this is needed. Another thing that really concerns is that injured workers in ND are mainly manual laborers. My question is: In what setting would a white collar worker go into an office and sign a release for all his prior medical concerns to that employer? My past medical history has been incorrectly transmitted to both independent medical examiners. In turn that information has been used against me. The information is so embarrassing to me personally that I would never identify it in group of strangers at all. If you think this cannot be used against an employee, you don't realize how powerful it is for an injured worker to be standing up against a corporation with legal representation, my ex-employer had legal representation. I did not. That's my concern. I see no need for this. It is blatantly an invasion of privacy.

**Dave Kemnitz, president, AFL-CIO**, testified in opposition of the bill. I have concern over the WC indicates that when the employer needs this medical information it is to understand what the restrictions are in the workplace. Under the statute, WC is responsible to see that the employer understands the restrictions, implements them and helps the individual become productive. I think the committee ought to take a look at that section, 65.05.01, on rehabilitation. WC tells us they don't use it. I submit that they should be making more use of it. On the job training is a valuable tool. It should be returned to rehabilitation as a viable return to work that employees and employers can use. I'm not clear on page 11, line 22. Does it make it harder for claimant?

**Shelly Seeberg** testified in opposition to the bill. In this section where we talk about prior information. I would like to remind the committee that there is a process that the bureau has when they go into administrative hearing and to the court of appeals when they can discovery and get any documentation they deem necessary. I see no reason for my employer to know prior medical care.

**Leroy Volk**, testified in opposition of the bill. The only reason I have against my SSN is when I got injured in 2000, 24 years ago I was injured. They said they wouldn't reopen that claim unless I filed a claim number. Why don't they use my social security number. This is just another loophole for them to jump around and make more paperwork for us and get more information. When you ask them for something you have to give them your claim number and that's what they go by.

**Chairman Keiser closed the hearing on HB 1120.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/28/2005

Amendment to: HB 1120

**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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

**WORKFORCE SAFETY & INSURANCE**  
**2005 LEGISLATION**  
**SUMMARY OF ACTUARIAL INFORMATION**

**BILL DESCRIPTION:** Scholarships; Definitions

**BILL NO:** Engrossed HB 1120

**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 engrossed bill increases the maximum amount of scholarships from \$3,000 per year to \$4,000 per year for up to five years for spouses and dependent children of a worker who died as a result of a compensable work-related injury; establishes the amount of scholarships issued in exceptional circumstances at \$10,000 per year for up to 5 years; increases the maximum amount of scholarships that can be awarded annually from \$150,000 to \$300,000; redefines the definition of child under workers' compensation law; redefines average weekly wage as wages received from all employments in which coverage was required or otherwise secured; changes the basis for determining the average weekly wage of a self employed employer from 1 year to an average of 3 years; clarifies the ability of healthcare personnel to communicate directly with employers on claims of their employees; and allows WSI to share social security numbers with medical facilities.

**FISCAL IMPACT:** The engrossed bill will allow for a potential increase in annual scholarships awarded from \$150,000 to \$300,000. These increases will be reflected in future premium levels but should not have a material impact. It is anticipated that the remaining items within the amended bill will not have a material impact.

**DATE:** January 31, 2005

**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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**Name:** John Halverson  
**Phone Number:** 328-3760

**Agency:** WSI  
**Date Prepared:** 01/31/2005

**FISCAL NOTE**  
Requested by Legislative Council  
12/29/2004

Bill/Resolution No.: HB 1120

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.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

**WORKFORCE SAFETY & INSURANCE**  
**2005 LEGISLATION**  
**SUMMARY OF ACTUARIAL INFORMATION**

**BILL DESCRIPTION:** Scholarships

**BILL NO:** HB 1120

**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 increases the maximum amount of scholarships from \$3,000 per year to \$4,000 per year for up to five years for spouses and dependent children of a worker who died as a result of a compensable work-related injury; increases the maximum amount of scholarships that can be awarded annually in scholarships from \$150,000 to \$200,000; redefines the definition of child under workers' compensation law; allows healthcare personnel to communicate directly with employers on claims of their employees; and allows WSI to share social security numbers with medical facilities.

**FISCAL IMPACT:** Scholarship costs will increase, however, the increase will not have a material impact on future premium levels.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**Name:** John Halvorson  
**Phone Number:** 328-3760

**Agency:** WSI  
**Date Prepared:** 01/11/2005

Adopted

# (

PROPOSED AMENDMENTS TO HB 1120

Page 12, line 1, after "employer" insert ",except that any such information directly disclosed to the employer must be relevant to the employee's work injury or to return to work issues"

Renumber accordingly



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

HS 2  
Adopted

Page 2, line 2, after "employments" insert "for which coverage is required or otherwise secured"

Page 2, line 15, after the first "the" insert "average annual", after "net" insert "self-employed", after the second "the" insert "three"

Page 2, line 16, overstrike "year" and insert immediately thereafter "years"

Page 11, line 3, replace "two" with "three" and remove the overstrike over "fifty"

Page 11, line 4, after "years" insert ", except that scholarships awarded on the basis of exceptional circumstances may not exceed ten thousand dollars per year for more than five years, per applicant"

Renumber accordingly

Date: 1-26-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1120

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Adopt Amendments (1 & 2)

Motion Made By

Rep. Ruby

Seconded By

Rep. Dosch

Representatives	Yes	No
G. Keiser-Chairman		
N. Johnson-Vice Chairman		
Rep. D. Clark		
Rep. D. Dietrich		
Rep. M. Dosch		
Rep. G. Froseth		
Rep. J. Kasper		
Rep. D. Nottestad		
Rep. D. Ruby		
Rep. D. Vigesaa		

Representatives	Yes	No
Rep. B. Amerman		
Rep. T. Boe		
Rep. M. Ekstrom		
Rep. E. Thorpe		

Total (Yes)

13

No

1

Absent

Floor Assignment

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

*NOT ADOPTED*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

Page 1, line 1, remove "create and enact a new subsection to section 65-05-32 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove ", subsection 1 of section"

Page 1, line 4, remove "65-05-25, and section 65-05-30"

Page 1 line 5, after the second comma insert "and"

Page 1, line 6, remove ", lump sum settlements, and communications regarding"

Page 1, line 7, remove "medical treatment"

Page 9, line 27, remove the overstrike over "on the job training or"

Page 11, remove lines 10 through 31

Page 12, remove lines 1 through 7

Page 12, line 8, remove "Sections 5 and 6 of this Act apply to all claims,"

Page 12, line 9, remove "regardless of the date of injury.", replace "Sections" with "Section", remove "and 4", and replace "apply" with "applies"

Renumber accordingly

Date: 1-26-05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1120

House **INDUSTRY, BUSINESS AND LABOR** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Adopt 3rd Amendment*

Motion Made By *Rep Amerman* Seconded By *Rep Ekstrom*

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe	X	
Rep. D. Clark		X	Rep. M. Ekstrom	X	
Rep. D. Dietrich		X	Rep. E. Thorpe	X	
Rep. M. Dosch		X			
Rep. G. Froseth		X			
Rep. J. Kasper	A				
Rep. D. Nottestad		X			
Rep. D. Ruby		X			
Rep. D. Vigesaa		X			

Total (Yes) 4 No 9

Absent (1) Kasper

Floor Assignment

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

January 26, 2005

VK  
1/27/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1120 IBL 1-27-05

Page 2, line 2, after "employments" insert "for which coverage is required or otherwise secured"

Page 2, line 15, after the first "the" insert "average annual", after "net" insert "self-employed",  
and after the second "the" insert "three"

Page 2, line 16, overstrike "year" and insert immediately thereafter "years"

HOUSE AMENDMENTS TO HB 1120 IBL 1-27-05

Page 11, line 3, replace "two" with "three"

Page 11, line 4, after "years" insert ", except that scholarships awarded on the basis of  
exceptional circumstances may not exceed ten thousand dollars per year for more than  
five years. per applicant"

HOUSE AMENDMENTS TO HB 1120 IBL 1-27-05

Page 12, line 1, after "employer" insert ", except that any such information directly disclosed to  
the employer must be relevant to the employee's work injury or to return to work issues"

Renumber accordingly

Date: 1-26-05  
Roll Call Vote #: 3

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1120

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended

Motion Made By

Rep. Dosch

Seconded By

Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		X
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes)

9

No

4

Absent

(1) Rep Kasper

Floor Assignment

Rep. Dosch.

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

**REPORT OF STANDING COMMITTEE**

**HB 1120: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1120 was placed  
on the Sixth order on the calendar.

Page 2, line 2, after "employments" insert "for which coverage is required or otherwise  
secured"

Page 2, line 15, after the first "the" insert "average annual", after "net" insert "self-employed",  
and after the second "the" insert "three"

Page 2, line 16, overstrike "year" and insert immediately thereafter "years"

Page 11, line 3, replace "two" with "three"

Page 11, line 4, after "years" insert ", except that scholarships awarded on the basis of  
exceptional circumstances may not exceed ten thousand dollars per year for more than  
five years. per applicant"

Page 12, line 1, after "employer" insert ", except that any such information directly disclosed to  
the employer must be relevant to the employee's work injury or to return to work  
issues"

Renumber accordingly



2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1120



2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1120

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 28 ,2005

Tape Number	Side A	Side B	Meter #
1	X		1,735-6040

Committee Clerk Signature



Minutes: **Chairman Mutch opened the hearing on HB 1120, relating to the use of social security numbers by workforce safety and insurance. All Senators were present.**

**Jodi Bjornson, general counsel for Workforce Safety and Insurance,** introduced the bill. See written testimony.

**Senator Klein-** Do we have a lot of scholarships out there right now?

**Jodi-** Since the inception of the scholarship program, we have distributed over \$480,000.

**Senator Nething-** Under section 3, you mention lines 10 & 11, that the scholarships may not exceed \$10,000 per year. What are the limits now?

**Jodi-** With respect to the exceptional circumstances, they were bound by these provisions: \$150,000 cap and \$3,000 maximum per applicant per year.

**Senator Nething-** Was there still a 5 year limitation?

**Jodi-** Yes.

**Senator Klein-** Do you know how many employers exempt themselves from coverage?

**Jodi-** I am not sure. I know that it is optional.

**Senator Krebsbach-** Now, we are going to \$300,000 available with a maximum scholarship of \$10,000, so only 30 people would be eligible. Is this correct?

**Jodi-** Yes. However, the exceptional amount only applies to the scholarship applicants.

**Dave Kemnitz, President of the North Dakota AFL-CIO,** appeared before the committee. He supports scholarship changes, sometimes kids lose their parents when they are young and need help with furthering their education. He has some concerns with the social security number being used for this. If House Bill 1171 doesn't pass this would still be in effect.

**Senator Nething-** You did not mention changing the definition of a child. Does that create any problem?

**Dave-** No.

**Cevold Vetter** appeared before the committee. He does not like the fact that in Section 6, the social security number can be used for anything they want.

**Senator Heitkamp-** If I'm understanding Jodi's testimony correctly, there is a protection from a Federal Act that they are not allowed to share the social security number to anyone once the information is transferred. Doesn't that ease your mind?

**Cevold-** It don't see where it flat out says that in there.

**Senator Klein-** They already have your social security number, they are working with your medical provider who is governed by the HIPPA laws, where they can't share it with anybody.

**Senator Krebsbach-** WSI just needs to have the social security number for verification purposes.

**Senator Heitkamp-** Cevold, if the concerns about section 6 are OK, do you support the rest of the bill?

**Cevold-** Yes.

**Jeffrey Miller**, an injured worker on workmen's compensation appeared before the committee. His 16 year old daughter was raped for 3 years by her stepfather and later became pregnant. He voiced his concerns regarding custody, and receiving benefits.

**Senator Heitkamp-** So, the overstrike on grandchildren page 8, is your main concern?

**Jeff-** Yes.

**Deb Bail**, an injured nurse from Jamestown appeared before the committee, in opposition to the bill. She explained her situation. Workers compensation is giving the employer authority to contact the doctor and obtain your medical records. She sees it as a problem of confidentiality. Her major concern is that injured workers of the state will not be able to find a physician who is willing to tolerate the amount of paperwork that comes with this.

**Senator Nething-** Did you testify before the House committee?

**Deb-** Yes.

**Senator Klein-** When the employer views your records, it has to be relevant to your work injury.

**Deb-** If an employer has the opportunity to view your records, that is what I have a problem with. They could view your entire life's medical history. This is invasive and not necessary.

**Glen Baltrusch** appeared in opposition to the bill. He requested all of the new language on page 2 be removed. He requested removal of other sections of the bill, that he views as unnecessary.

**Dave Mc Iver appeared in support of the bill, representing the ND Chamber of Commerce.**

The bill is a good example on caring for workers and their families, especially with the scholarship provision.

**Dan Finneman**, an injured worker appeared before the committee. See written testimony.

**Ed Christianson** appeared before the committee. Workers compensation works for the state and for the employer. Its their job to get the necessary information from the doctor. The only part he has concerns about is the employer contacting the doctor directly.

**Chairman Mutch closed the hearing on HB 1120. No action was taken.**

Date: 3-16-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1120

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Klein

Seconded By

Espegard

Senators  
Chairman Mutch  
Senator Klein  
Senator Krebsbach  
Senator Espegard  
Senator Nething

Yes

No

X  
X  
X  
X  
X

Senators

Senator Fairfield  
Senator Heitkamp

Yes

No

X  
X

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Heitkamp

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

**REPORT OF STANDING COMMITTEE (410)**  
March 18, 2005 8:58 a.m.

**Module No: SR-50-5384**  
**Carrier: Heitkamp**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1120, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1120 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

HB 1120

**WORKFORCE SAFETY & INSURANCE  
2005 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION**

**BILL DESCRIPTION:** Scholarships; Definitions

**BILL NO:** HB 1120 with Amendments

**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 increases the maximum amount of scholarships from \$3,000 per year to \$4,000 per year for up to five years for spouses and dependent children of a worker who died as a result of a compensable work-related injury; increases the maximum amount of scholarships that can be awarded annually in scholarships from \$150,000 to \$200,000; redefines the definition of child under workers' compensation law; allows healthcare personnel to communicate directly with employers on claims of their employees; and allows WSI to share social security numbers with medical facilities.

The proposed amendments redefine average weekly wage as wages received from all employments in which coverage was required or otherwise secured; changes the basis for determining the average weekly wage of a self-employed employer from 1 year to an average of 3 years; increases the amount of scholarships issued in exceptional circumstances to \$10,000 per year for up to 5 years; and increases the maximum annual amount awarded in scholarships to \$350,000.

**FISCAL IMPACT:** The fiscal impact of the proposed bill with amendments will allow for a potential increase in annual scholarships awarded of up to \$200,000. These increases will be reflected in future premium levels but should not have a material impact. It is anticipated that the remaining items within the amended bill will not have a material impact.

**DATE:** January 17, 2005



**2005 House Bill No. 1120**  
**Testimony before the House Industry, Business, and Labor Committee**  
**Presented by: Rob Forward, Staff Counsel**  
**Workforce Safety and Insurance**  
**January 17, 2005**

Mr. Chairman and Members of the Committee:

Good Morning. My name is Rob Forward and I am staff counsel for Workforce Safety and Insurance (WSI). I am here today to testify in support of House Bill 1120. In this bill, WSI proposes changes to the statutory definitions of "child" and "grandchild," requests an increase in the amounts it may award in scholarships, and proposes to grant medical providers the authority to communicate with employers.

**Section 1.** This section of the bill changes the definition of "child" so that only children dependent on an injured worker for support are considered when an injured worker is eligible to receive the existing dependency allowance for each child. The suggested changes would require additional proof of dependency through an appropriate court order or income tax return to confirm dependency status. Section 1 of this bill also removes the definition of "grandchild." This definition is no longer used in our workers' compensation law and is not tied to any type of benefit, so removing this language from the Code has no substantive effect. Section 1 of this bill also revises the definition of "Rehabilitation services." This was inadvertently placed in this bill and coincides with the changes proposed in HB 1171. We recommend the proposed change remain in HB 1120; however, if HB 1120 were to pass and HB 1171 were not, we would work with Legislative Council to correct the removal.

**Section 2.** This section of the bill is only necessary because of the renumbering brought about by the changes in Section 1 of this bill.

**Section 3.** This portion of the bill addresses scholarship increase for the spouses and children of workers killed on the job as well as for injured workers with exceptional circumstances. When originally filed, Section 3 would have increased the maximum total amount that could be awarded annually from WSI's scholarship fund from one hundred fifty thousand dollars to two hundred thousand dollars, and increased the maximum yearly amount for an individual from three thousand to four thousand dollars. As a result of some further discussion and research, we are asking you today to consider an amendment to this section of the bill. While the increase for an individual from three thousand to four thousand dollars would remain, the amendment increases the total annual award limit to three hundred-fifty thousand dollars as well as raise the limit of scholarship awards for injured workers with exceptional circumstances to \$10,000 per year for up to five years. The intent of this increase is to help an injured worker when their wage replacement is low and their age and other factors show an education or retraining would help them, but they do not qualify under existing law. These proposed increases are intended to address the rising cost of a college education and to ensure the scholarships have meaningful value.

**Section 4.** This section of the bill addresses WSI's authority to settle claims with permanently and totally disabled workers. The law currently requires a permanently and totally disabled worker to provide a plan showing the worker can return "to work" as a productive member of society. However, this requirement is at odds with the definition of permanent and total disability in which an individual is supposed to be incapable of working. Under the proposed change, the injured worker will still be required to submit a plan demonstrating they can be "a productive member of society," but they do not have to show that their plan will return them to work.

**Section 5.** The changes in this portion of the bill clarify that WSI may obtain medical information needed to process an injured worker's claim. It will also allow employers to communicate directly with medical providers. Currently, the law allows an employer to obtain information about an injured worker's claim on file at WSI, including the medical information. However, some medical providers are reluctant to communicate directly with employers, and so WSI becomes a "middleman" in communicating medical information between the employer and the treating doctor. This is cumbersome and unnecessary. Open and direct communication between the doctor, injured worker, and employer on the medical information relevant to the claim is vital because the employer plays one of the most important roles in returning an injured worker to the workplace. Direct input from the treating physician to the employer can help the employer better understand the ramifications of the injury on the worker and assist them in their return. The proposed change takes WSI out of the middle and allows doctors, injured workers and employers to freely communicate.

**Section 6.** This section allows WSI to use an injured worker's social security number as a verifier when communicating with health care providers. The 2003 Legislative Assembly enacted a law that prohibits state agencies from disclosing a citizen's social security number. While WSI supports the concept that formed the basis of this legislation, the inability to use a social security number as a verifier when dealing with medical providers has had the unintended consequence of slowing the processing of injured workers' claims. This is because social security numbers have historically been the best way to verify and guarantee the identity of an injured worker during the exchange of claim and medical information when processing their claim.

In order to process claims more quickly and accurately, WSI proposes a very limited exception to the use of social security numbers. It should be noted that the Health Insurance Portability and Accountability Act (HIPAA) prohibits medical providers from disclosing the number to the public. Therefore, an injured workers' confidentiality is protected by HIPAA while the number is in the hands of the medical provider, and it is protected by North Dakota law while in WSI's possession.

Finally, WSI is proposing a second amendment to this bill which clarifies the definition of "average weekly wage" to mean wages from all employments where workers' compensation coverage is required or otherwise secured. Additionally, this proposal modifies the basis for calculating the average weekly wage of a self-employed worker. The current basis is the higher of the net earnings from the preceding tax year or the preceding 52 weeks. The amendment changes the basis for the calculation to the higher of either the average annual net earnings from the preceding three tax years or the preceding 52 weeks. The change is intended to recognize that self-employed workers may experience income swings from year to year, and so the use of an average when calculating their income gives a more fair representation of their wage loss.

Thank you for your consideration. I will be glad to answer any questions you might have about House Bill 1120 or the proposed amendments.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

Page 2, line 2, after "employments" insert "for which coverage is required or otherwise secured"

Page 2, line 15, after the first "the" insert "average annual", after "net" insert "self-employed", and after the second "the" insert "three"

Page 2, line 16, overstrike "year" and insert immediately thereafter "years"

Renumber accordingly

VOID

#3

1) PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

**Scholarship Changes**

Page 11, line 3, replace "two" with "three"

Page 11, line 4, after "years", insert ",except that scholarships awarded on the basis of exceptional circumstances may not exceed ten thousand dollars per year for more than five years, per applicant"

2) PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

**Self-employed changes**

Page 2, line 2, after "employments" insert "for which coverage is required or otherwise secured"

Page 2, line 15, after the first "the" insert "average annual", after "net" insert "self-employed", and after the second "the" insert "three"

Page 2, line 16, overstrike "year" and insert immediately thereafter "years"

# Perioperative Internal Medicine Consultation



PATIENT NAME: DANIEL FINNEMAN

DOB: 04-04-1959

PROCEDURE DATE: 01-14-2003

DATE OF DICTATION: 01-14-2003

CONSULTING PHYSICIAN: RAYMOND L. PIERCE, M.D.

BLACK HILLS SURGERY CENTER, L.L.P.  
Medical Records Department

ATTENDING PHYSICIAN: LARRY TEUBER, M.D.

The patient is a 43-year-old white male from Dickinson, ND, referred by Dr. Teuber for a perioperative internal medicine consultation.

## HISTORY OF PRESENT ILLNESS:

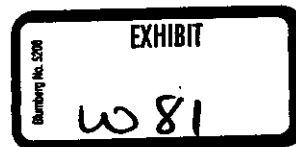
The patient is a 43-year-old white male who evidently suffered a fall at work in 1995 and has had ongoing problems with back pain, paresthesias down his legs, urinary retention with bladder dysfunction and intermittent constipation since that time. The patient did undergo a lumbar microdiscectomy in 1995 as well as lumbar anterior decompression with interbody fusion in April of 1999. The patient continues to have problems, has recently been reevaluated by neurosurgery as an outpatient and is found to have nonfusion of his prior anterior lumbar procedure. The patient is currently admitted status post L4-L5 posterior decompression with interbody fusion, instrumentation and allograft.

The patient is currently lying comfortably in bed. Patient is comfortable and states pain control is currently adequate. Patient had some nausea and vomiting postoperatively which has resolved with antiemetics. The patient is currently tolerating some solid foods. The patient does have moderate hoarseness however has no had any dysphagia, choking, strider, shortness of breath or chest pain.

## PAST MEDICAL HISTORY:

1. Patient has had a history of intermittent migraines for which he states he takes no specific medications.
2. Patient has had a history of urinary dysfunction with urinary retention and frequency for which he has had multiple workups with multiple urology providers. The patient has been seen at Mayo clinic for a multitude of his problems. The patient had bene tried on alpha-blockers with no response. Has also had a TENS unit for neural modulation with no response. The patient was to have an Interstim device implanted however workman's comp would not okay this so procedure was never pursued. The patient has used intermittent catheterization however has some difficulty doing that.

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44 CONTINUED

45 RE: Daniel Finneman

46 DATE: 01-14-2003

47 PAGE 2

- 48
- 49
- 50
- 51 3. The patient also is having problems with intermittent constipation. The patient currently takes -
- 52 Docusate sodium daily at nighttime. The patient currently denies any ongoing constipation.
- 53 4. Patient had recent sinusitis in late December found on an MRI scan which was done for workup of
- 54 onset of tinnitus. Patient states his sinus problems seem to have improved considerably with
- 55 Amoxicillin treatment that he had at that time. The patient states his tinnitus has not improved.
- 56 5. The patient has also had some erectile dysfunction along with his urinary tract symptoms.
- 57 6. Patient has had chronic problems with episodes of chest discomfort of multiple different types.
- 58 Patient did have a stress test in 1998, which was normal. Patient has stated that he had an injury to
- 59 the middle of his back being hit with a pulley of some type in his youth and was told at that time
- 60 that he had some sort of bone chip or secondary reactive bone spur formation in the middle of his
- 61 spine which accounts for some of his chest pain.
- 62 7. The patient has had prior knee surgeries on his right knee in 1987 and 1995.
- 63 8. Patient has had a vasectomy in 1992.
- 64 9. Patient had a tonsillectomy in 1975.

This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

BLACK HILLS SURGERY CENTER, L.L.R.  
Medical Records Department

65 **CURRENT MEDICATIONS:**

- 66 1. Multivitamin daily.
- 67 2. Calcium with Vitamin D three times daily.
- 68 3. Docusate sodium daily at bedtime.

69 **ALLERGIES:**

70 No known allergies.

71

72 **SOCIAL HISTORY:**

73 The patient is divorced. Is a self-employed building contractor and lives independently in North Dakota.

74

75 **HABITS:**

- 76 1. Tobacco - patient is a lifelong nonsmoker.
- 77 2. Alcohol - patient rarely drinks alcohol.
- 78 3. Drugs - patient has never used any illicit drugs.

79

80 **FAMILY HISTORY:**

- 81 1. Father died secondary to a stroke at the age of 63.
- 82 2. Family history is otherwise noncontributory.

83

84 **REVIEW OF SYSTEMS:**

- 85 1. Patient complaints of lightheadedness and sweats after he takes his bedtime Docusate sodium.
- 86 2. The patient had a recent sinus infection as noted above.
- 87 3. The patient has tinnitus as noted above which gets worse with exposure to high pitched sounds
- 88 which has not resolved with treatment of his sinusitis.
- 89 4. The patient has intermittent migraines as noted above.
- 90 5. The patient has multiple types of intermittent chest pains including pain that seems to begin in his
- 91 back and radiating around his sides. Patient also gets chest pain at times post prandially particularly
- 92 if he eats relatively dry foods without drinking enough liquids. Patient also states he gets some
- 93 intermittent regurgitation of food into his mouth. Patient also admits to some episodes of heartburn.
- 94 Patient denies any symptomology at nighttime or awakening him from sleep.
- 95 6. Patient has chronic urinary retention as noted above.

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- 101  
102  
103 7. Patient was having problems with constipation however denies any constipation at this time. The  
104 patient does state that he gets some intermittent bright red blood per rectum primarily on the toilet  
105 paper but occasionally streaking the stool.  
106 8. Patient also states that sometimes he gets pains or paresthesia or numbness going down his arms  
107 more so on the left than the right.  
108 9. Patient did state having history of hypercholesterolemia on his Colby questionnaire however is  
109 currently taking no lipid reducing medications.  
110 10. Patient also has some problems with erectile dysfunction and premature ejaculation also with onset  
111 at the time of his urinary retention problems.  
112 11. Patient denies any recent weight loss, appetite change, fevers, chills, vision problems, epistaxis,  
113 cough, cold, hemoptysis, palpitations, dizziness, syncope, edema, jaundice, diarrhea, hematuria,  
114 skin rashes, abnormal bruising or bleeding, tremors, seizures, memory deficits, depression or  
115 psychiatric symptoms.

116  
117 **PHYSICAL EXAMINATION:**

118 **GENERAL:**

Shows a well developed, well nourished white male lying comfortably in bed in no acute distress. The patient does have moderate hoarseness but no strider.

119  
120  
121 **VITAL SIGNS:**

Show temperature of 99.1 degrees, blood pressure is 100/50, heart rate is 90, respiratory rate is 18, oxygen saturation is 96% on room air.

122  
123  
124 **HEENT EXAM:**

Shows patient to be normocephalic and atraumatic. Pupils are equal, round and reactive. Extraocular muscles are intact. Sclerae are clear. There is no nystagmus. Oropharynx is clear and moist. Neck is supple with no gross JVD and no carotid bruits. There is no gross thyromegaly, adenopathy or masses.

125  
126  
127 **LUNGS:**

Clear to auscultation with good airflow bilaterally.

128  
129 **CARDIOVASCULAR EXAM:**

Shows regular rate and rhythm. S1 and S2 are normal. There is no gross murmur, gallop or heave.

130  
131  
132 **ABDOMEN:**

Flat, bowel sounds are positive. Abdomen is soft and nontender with no gross hepatosplenomegaly or masses.

133  
134 **EXTREMITIES:**

Show no edema, pulses are adequate in all four extremities. Calves are soft and nontender.

135  
136 **NEUROLOGIC EXAM:**

Shows patient to be alert and oriented times three. Cranial nerves are grossly intact. Patient moves all four extremities with no gross focal deficits. Pedal plantar flexion and dorsiflexion is 5 and 5 and symmetric bilaterally.

137  
138  
139  
140  
141 **LABORATORY:**

142 Done on 1-7-03 showed a hemoglobin of 16.8, hematocrit of 47.0, white blood cell count of 5.92, platelet  
143 count of 234,000, normal red blood cell indices and normal white blood cell differential.

This information has been released to you from records whose confidentiality is protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

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Medical Records Department

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144  
145 CONTINUED  
146 RE: Daniel Finneman  
147 DATE: 01-14-2003  
148 PAGE 4  
149  
150

151 **ASSESSMENT & PLAN:**

- 152 1. Chronic low back pain with lumbar radiculopathies and urinary retention secondary to a fall with  
153 resultant lumbar disk disease – the patient is status post prior lumbar disectomy in 1995 and prior  
154 anterior lumbar decompression with interbody fusion in April of 1999 with subsequent fusion  
155 failure. The patient is now status post posterior lumbar interbody fusion. Patient seems stable  
156 postoperatively at this time.  
157 2. Chronic urinary retention – patient currently has perioperative Foley. Will follow clinically when  
158 Foley is removed.  
159 3. Tinnitus of relatively recent onset – patient did have maxillary sinusitis, which was treated. Patient  
160 will also receive some perioperative IV antibiotics routinely. Patient will also receive three doses of  
161 postoperative Decadron. Will see if any of these have any further effect on relieving patient's  
162 subacute tinnitus. Otherwise will refer back to primary physician for further follow-up.  
163 4. Migraines – patient denies any current symptoms. Will follow clinically.  
164 5. Chest pain – seems multifactorial. Some musculoskeletal component, which seems relatively  
165 chronic which we will refer back to his primary for ongoing follow-up and evaluation. Patient also  
166 possibly has some component of GI chest pain and dysphagia with dry solid foods. Question if  
167 patient has chronic gastroesophageal reflux disease and/or hiatal hernia. Will put patient  
168 empirically on proton pump inhibitors during his hospital stay and follow clinically.  
169 6. Prior stated history of hyperlipidemia – will refer back to primary physician for further evaluation  
170 and follow-up.  
171 7. History of degenerative joint disease status post prior knee surgeries – chronic.  
172 8. Intermittent bright red blood per rectum with or without intermittent constipation – preoperative  
173 hemoglobin was well within normal limits. Doubt significant GI bleed. Possibly patient has  
174 chronic hemorrhoids and/or recurrent fissures particularly if continues to have recurrent  
175 constipation. Will refer for further evaluation to primary physician.  
176

177 **PHYSICIAN SIGNATURE:**

178 **DICTATED: 01-14-2003**

179 **BY: RAYMOND L. PIERCE, M.D.**

180 01-15-2003 aam

181 **JOB #: 38360**

Date: 1/15/2003

182  
183 **CC: DR. TENBER**

184 **DR. THOMAS TEMPLETON – 33 9<sup>TH</sup> ST. W, DICKINSON ND 58601**  
185

186 **\*DRAFT COPY-until signed by a physician or healthcare provider.\***  
187  
188

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BLACK HILLS SURGERY CENTER, L.L.P.  
Medical Records Department

95450583

# DISCHARGE SUMMARY



PATIENT NAME: DANIEL M. FINNEMAN DOB: 04-04-1959

DATE OF ADMISSION: 01-15-2003

DATE OF DISCHARGE: 01-17-2003

DICTATING PHYSICIAN: JO DETWILER, PA-C/RAYMOND L. PIERCE, M.D.

ATTENDING PHYSICIAN: LARRY TEUBER, M.D.

## ADMITTING DIAGNOSIS:

Low back pain with bilateral leg radiculopathy secondary to pseudoarthrosis at L4-5.

## DISCHARGE DIAGNOSIS:

1. Low back pain with bilateral leg radiculopathy secondary to pseudoarthrosis at L4-5.
2. Status post ALIF L4-5 April of 1999 in Texas.
3. History of urinary retention.
4. History of migraines.
5. ED.
6. Occasional bright red bleeding per rectum.

## PROCEDURES PERFORMED:

L4-5 posterior decompression and posterior lumbar fusion.

## BRIEF HOSPITAL COURSE:

The patient tolerated the surgery well. His pain was well controlled. He did still have some urinary retention requiring straight cath.

He had otherwise an uneventful postoperative course.

## LABORATORIES WHILE IN HOSPITAL:

On 1-15-03 sodium was 135, potassium 4.7, H&H 16/47. We just did bladder scan post voiding before discharge and is 400-cc now so the patient will continue self cath.

## DISPOSITION:

Home.

## CONDITION ON DISCHARGE:

Good.

## MEDICATION CHANGES FROM ADMISSION:

None.

This information has been disclosed to you from records and is not to be used for any purpose other than that for which it was disclosed. Federal law (42 CFR Part 2) prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

BLACK HILLS SURGERY CENTER, L.L.P.

Medical Records Department

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49  
50 CONTINUED  
51 RE: Daniel M. Finneman  
52 DATE: 01-15-2003  
53 PAGE 2

DISCHARGE MEDICATIONS:

56 Fosamax 70-mg one q. week times six months.  
57 Calcium 500-mg with vitamin D one three times a day with meals for six months.  
58 Multivitamin one q.d. for six months.  
59 Percocet 5/325-mg one to two tablets q.4-6h. p.r.n. pain.  
60 Surfak 240-mg one b.i.d.  
61 Flexeril 10-mg one q.8h. p.r.n. pain.

DISCHARGE DIET:

63 Regular.

DISCHARGE ACTIVITY:

67 Please see discharge activity sheet.

FOLLOWUP:

70 He is to see Dr. Templeton on 1-23-03 at 3:15 for an incision check, and followup of his urinary retention,  
71 and the bright red rectal bleeding that he was complaining to our hospitalist on admission. He will see Dr.  
72 Teuber in his outreach office at Queen City Medical Center in Spearfish on 2-14-03 at 11:00 a.m. He will  
73 begin physical therapy on 2-17-03 at 11:00 a.m. at Rehab Visions in Dickinson.

PHYSICIAN SIGNATURE:

77 DICTATED: 01-17-2003

78 BY: JO DETWILER, PA-C/RAYMOND L. PIERCE, M.D.

79 01-20-2003 AAM

80 JOB #:38560

Date: 1/20/2003

82 CC: Dr. Templeton  
83 Dr. Teuber

85 \*DRAFT COPY-until signed by a physician or healthcare provider.\*  
86

This information has been obtained from records  
which are confidentially protected by Federal law. Federal  
law (42 U.S.C. Part 2) prohibit you from making any  
disclosure of it without the specific written consent  
of the individual to whom it pertains, or as otherwise permit-  
ted by law. A general authorization for the  
release of medical or other information is NOT sufficient  
for this purpose.

QUEEN CITY MEDICAL CENTER, L.L.P.  
SPEARFISH, S.D. 57583

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6

**Testimony of Dave MacIver  
President, Greater North Dakota Chamber of Commerce  
Presented to the Senate IBL Committee  
February 28, 2005**



**HB 1120**

Mr. Chairman and members of the Senate Industry, Business and Labor Committee, my name is Dave MacIver. I am the President of the Greater North Dakota Chamber of Commerce. I am here today representing a coalition of a number of associations, many of which are in this room together with 17 chambers of commerce that speak for over 7,400 member businesses. I am here today to urge you to **support** House Bill 1120.

HB 1120 is another good example of how employers feel about caring for the injured worker and their families. The scholarship program is a great opportunity to be taken advantage of and we support this concept. The business community is pleased to see the increase in amounts available in scholarships to the spouses and dependent children.

In addressing the release of an employees social security number, the North Dakota Chamber believes this would speed up the process of helping an injured worked receive the benefits to which they are entitled.

Thank you, Chairman Mutch and members of the Senate Industry Business and Labor Committee, for this opportunity to discuss the business community's position on HB 1120. We urge a **DO PASS** for HB 1120. Thank you and I would be happy to answer any questions at this time.

# Workforce

Workforce Safety  
& Insurance  
WSI Putting safety to work

House Industry, Business and  
Labor Committee

WSI Legislative Proposals



January 12, 2005 [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Our Vision

To be an independently governed and recognized leader in providing superior workers' compensation products and services to employers, workers, and providers.

Workforce Safety & Insurance  
WSI Putting safety to work [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Our Values

Excellence	Integrity
Service	Passion
Honesty	Trust
Compassion	Justice
Commitment	Financial Stability

Workforce Safety & Insurance  
WSI Putting safety to work [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Our Mission

Our mission is our passion.  
Our passion is North Dakota's workforce.  
To us it's personal.

Workforce Safety & Insurance  
WSI Putting safety to work [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Highlights

- WSI is the sole administrator of the workers' compensation system in North Dakota.
- WSI was established in 1919 and exists solely to provide indemnity and medical benefits to workers injured during the course of their employment.
- WSI is not a general fund agency; rather, it collects premium each year from North Dakota employers.

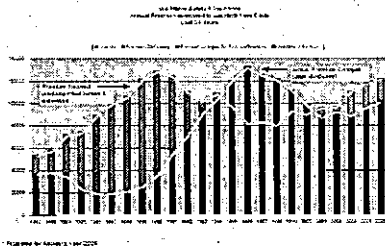
Workforce Safety & Insurance  
WSI Putting safety to work [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Highlights

- Premium rates are established using sound actuarial principles and are the lowest in the nation.
- Benefits, on the other hand, rank in the top two-thirds nationally.
- WSI operates with a single-line appropriation.

Workforce Safety & Insurance  
WSI Putting safety to work [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Historic Trends



## 2005 Legislative Proposals

- Introduction of Legislative Team.
- **New Bill**  
"WSI educational revolving loan fund."
- **Amendments**
  1. Changes to Guardian Scholarships.
  2. Revamping Vocational Retraining Options.
  3. Continuing appropriations for Safety efforts.

## House Bill 1120

Sponsor...Rep. Frank Wald

Co-sponsors...Sen. Dick Dever  
Rep. Jim Kasper

Presented by Jodi Bjornson

## HB 1120

### Definition of Child

- Refines the definition of child under workers' compensation law.

### Scholarships

- Increases the maximum scholarship amounts from \$3,000 per year to \$4,000 per year for up to five years for spouses and dependent children of a worker who died as a result of a compensable work-related injury.

## HB 1120

### Communication with Employers

Allows healthcare personnel to communicate directly with employers on claims of their employees.

### Social Security Number Use

Allows WSI to share Social Security numbers with medical facilities.

## HB 1120 Fiscal Note

### FISCAL NOTE:

- Scholarship costs will increase; however, the increase will not have a material impact on future premium levels.

## House Bill 1171 Sponsors

Sponsor...Rep. Nancy Johnson, Vice-Chair of the House Industry, Business and Labor Committee

Co-Sponsor...Sen. Jerry Klein, Vice-Chair of the Senate Industry, Business and Labor Committee

Presented by Tim Wahlin

## HB 1171

- Will not take effect until Jan. 1, 2006.
- Does not affect claims prior to effective date.
- Earliest impact will occur in 2008.
- Full impact takes places in 2013.

## HB 1171

### Capping of Temporary Total Disability Benefits

Caps temporary total disability benefits at 104 cumulative weeks and combined benefits of 364 weeks or when Maximum Medical Improvement (MMI) is reached. Currently no caps exists.

### Definition of Permanent Total Disability

Redefines permanent total disability (PTD) in workers' compensation law.

## HB 1171

### Elective Retraining

- Allows an injured worker to decide whether to accept retraining as a vocational rehabilitation option.
- Expands coverage of temporary partial disability benefits.

### Noncompliance with Vocational

### Rehabilitation Appeals

This bill makes the appeal process consistent.

## Fiscal Note for HB 1171

### Reserve Level Impact:

We anticipate no reserve level impact as the legislation is prospective only.

Claims incurred prior to the effective date of this legislation are not impacted.

## Fiscal Note for HB 1171

### Rate Level Impact:

HB 1171 will serve to reduce long-term benefit costs for claims filed after the effective date of this legislation.

With this prospective change, it is estimated that offsets to future premium levels could range from approximately 2% to 3% (or \$2.5 million to \$3.3 million per year based on current premium levels).



## House Bill 1119 Sponsors

Sponsor...Rep. Mark Dosch

Co-Sponsor...Senator Ralph Kilzer

Presented by Anne Green



## HB 1119

- **Drug Testing of Employees**
- Clarifies existing law to provide WSI the opportunity to test injured workers where drug misuse or abuse is suspected.
- WSI may suspend or discontinue benefits.
- Applies to those classes of drugs most prone to abuse or misuse.



## HB 1119 Fiscal Note

- No significant quantifiable impact is anticipated. The drug testing provision may serve to expedite recovery and earlier returns-to-work in certain cases, resulting in some savings for those individual cases. To the extent savings occur, it will be reflected in future premium levels.

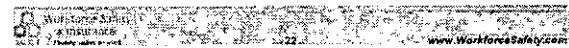


## House Bill 1122

Sponsor...Rep. Dan Ruby

Co-Sponsor...Sen. Jerry Klein

Presented by Rob Forward



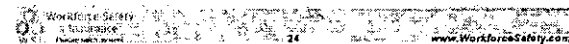
## HB 1122

- **Third-Party Recoveries**
- Creates a lien on monetary awards or settlements paid to an injured worker.
- Clarifies WSI's ability to bring a legal action to collect its share.
- Clarifies the amount of attorney fees WSI must pay when a recovery is made.
- Keeps WSI in the loop on potential settlements.



## HB 1122

- **Recovery of Benefits Paid**
- Allows WSI to recover benefits paid to an injured worker for a claim accepted by WSI and later accepted in another state.



#### HB 1122 Fiscal Note

- The proposed legislation will assist WSI in collecting their share of recoveries to which the organization is entitled.
- Although not quantifiable, to the extent recoveries are increased and costs are reduced, this will be reflected in future premium levels.

#### House Bill 1125

Sponsor...Rep. Alan Carlson

Co-Sponsors...Sen. Karen Kresbach  
Rep. Don Vigesaa

Presented by Anne Green

#### HB 1125

##### Minimum Premium

- Allows changes to the minimum premium to be considered as part of the rate-making process.

##### Safety Discounts

- Allows WSI to establish a discount program offering a range of discounts.
- New Safety Initiatives
- Continuing Appropriation

#### HB 1125

##### Medical Expense Assessments

- Provides \$250 financial incentives to employers when a workplace injury is reported within 24 hours.
- Maintains \$250 assessment for injuries reported from 2 to 14 days.
- Increases the assessment to \$350 for injuries reported after 14 days.

#### HB 1125

##### Optional Coverage for Children

- Simplifies the calculation of premium for employers carrying optional coverage on their children.
- Children of employers under the age of 22 → optional coverage based on actual wages paid and not at the maximum.
- Children of employers over the age of 22 → mandatory comp coverage.

#### HB 1125 Fiscal Note

No significant quantifiable impact is anticipated.

To the extent reporting lag time is reduced and the revamped safety programs results in reductions of overall claims costs, it will be reflected in future premium levels.

## House Bill 1123 Sponsors

Sponsor...Rep. Leroy Bernstein

Co-Sponsors...Rep. Frank Wald  
Rep. Jim Kasper

Presented by Anne Green



## HB 1123

### Specific Authority to Decline Coverage

- Permits WSI to decline coverage to an employer attempting to establish a new account where an outstanding premium delinquency remains unresolved.

### Employer Penalties

- Vests discretion with the Executive Director to reduce stringent penalties on an employer's account.



## HB 1123

### Independent Contractors

- Requires a person asserting independent contractor status to annually file a statement with the organization certifying that status.

### Out-of-State Employer Reciprocity

- Modify the extraterritorial language to be based solely on a percentage of income per employee.



## HB 1123 Fiscal Note

- Revamping the criteria and discount ranges of the existing safety discount programs to include additional incentives for improvements in timely claims reporting, reductions in claim frequency, and reductions in claim severity may serve to reduce overall claims costs.
- The waiver of the \$250 medical assessment provides an incentive for employers who report claims promptly. Studies indicate that as reporting lag time increases, claims costs rise. Based on an industry study, claims reported during the second week cost 18% more than those reported in week one; claims reported during weeks three and four cost approximately 30% more than those reported in week one.
- To the extent reporting lag time is reduced and results in reductions of overall claims costs, it will be reflected in future premium levels.



Jays Pawn 1 3101 Memorial Hiway Mandan ND, 58554 701-663-0708

**Terms of Loan**

Promissory Note # JP1-01530

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Emp ID: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ DOB: \_\_\_\_\_  
 ID: \_\_\_\_\_ Check #: \_\_\_\_\_  
 Bank: \_\_\_\_\_  
 Acct #: \_\_\_\_\_ Approval #: \_\_\_\_\_

I, the undersigned, promise to pay the amount indicated in the Total Payment box to the order of Jays Pawn 1. The note must be paid on or prior to the Date Due stated below. The Service Charge for processing this loan is earned by the creditor at the inception of the loan and is not refundable. I, the undersigned agree that the account from which the check is drawn will have sufficient funds on the payment Date Due. I further agree not to stop payment on the check or take any action that will result in the failure of your bank to honor the check on the payment Date Due. A \$20.00 fee may be added to any check dishonored by the licensed provider once per customer, per year, as prescribed by North Dakota Century Code.

**Full Disclosure Statement**

☐ A Payday Loan is a short-term loan. If you have long-term needs, another source of credit should be considered. Jays Pawn 1 will not discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age; or because all or part of the applicants income derives from any public assistance program; or because the applicant in good faith exercised any right under the Equal Credit Opportunity Act. Fees: 20% for 6 days. APR: 1216.67%

☐ No security is held as a condition of the transaction or method of collection.

**Amount of Loan**

(Cash I received)

\$

**Total Payment**

(The amount I have to pay back)

\$

**Service Charge**

(How much the loan cost me)

\$

**Annual Percentage Rate**

(APR the cost of my loan at a yearly rate)

Original Date Due \_\_\_\_\_

Final Due Date \_\_\_\_\_

**Notice to Consumer**

☐ ND law limits payday loans to no more than \$500 at any one time.

☐ ND law limits payday loans to one 15 day renewal. The maximum term of the payday loan, including the renewal, may not exceed 45 days.

☐ ND law limits the renewal fee to no more than 20% of the Amount of Loan. ND law allows additional fees if the transaction is renewed rather than paid in full when due. If renewed, any amount paid in excess of the fee applies to the payoff amount

☐ A consumer privacy notice is provided with this contract.

☐ The maker may rescind this transaction by the close of the following business day at no cost.

**Signature**

By signing above, you hereby acknowledge that the information provided herein is true, correct, and accurate. You acknowledge that you have read, and understood and accept the terms and conditions of this agreement.

**Customers Copy****Renewed On**

Jays Pawn 1 3101 Memorial Hiway Mandan ND, 58554 701-663-0708

**Terms of Loan**

Promissory Note # JP1-01530

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Emp ID: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ DOB: \_\_\_\_\_  
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**File Copy****Renewed On**

PayDayRightAway

**This is a FREE NO OBLIGATION application**

<b>First Name:</b> John	<b>Initial:</b> D	<b>Last Name:</b> Doe
<b>Street Address:</b> 1234 PayDay Loan Dr.	<b>State:</b> North Dakota <input type="checkbox"/>	<b>Zip:</b> 58501
<b>Email:</b> paydayloan@aptnd.com	<b>Home Phone:</b> 123 456 7890	<b>Work Phone:</b> 123 456 7890 x
<b>Employer:</b> PayDay Inc.	<b>Monthly Take Home Pay:</b> \$1000-1199 <input type="checkbox"/>	<b>Primary Source of Income:</b> Employed <input type="checkbox"/>
<b>How Often Do You Receive a Paycheck?</b> Every two weeks <input type="checkbox"/>	<b>Next Payday:</b> 2 / 8 / 2005	
<b>Length of Time Employed:</b> 4 Yrs. and 2 Mos.	<b>Do You Have Direct Deposit?</b> Yes <input type="checkbox"/>	
<b>What Type(s) of Bank Account(s) Do You Have?</b> Checking & Savings <input type="checkbox"/>		
<b>Are You a U.S. Resident and 18 and over?</b> <input checked="" type="radio"/> Yes <input type="radio"/> No		

**GET CASH NOW!**

**Need a CASH ADVANCE**

**of up to \$500 in 24 Hours or less**

**Complete a 3 Minute Application**  
**GET CASH WIRED**  
**into your Bank Account**

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PayDayRightAway

## Fill in the LAST STEP below!

City:

Best Time to Contact:

Choose ☐

Social Security:

Alternate Phone:

How many payday loans do you currently have open?

Choose ☐

## About Your Employer

City:

State:

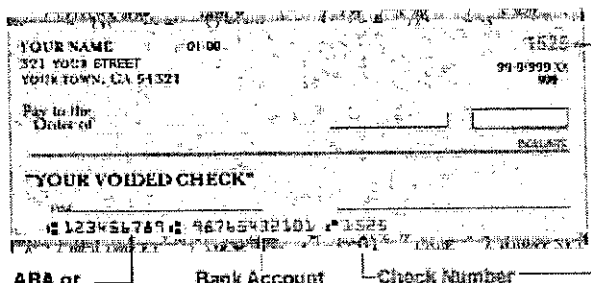
Choose ☐

Zip Code:

Supervisor Name:

Employer Phone:

## Where Do We Wire Your Cash Advance? (please provide your Bank Information)



YOUR NAME 01:00  
321 YOUR STREET  
YOUR TOWN, CA 94321  
Pay to the  
Order of  
"YOUR VOIDED CHECK"  
123456789 98765432101 1523  
ABA or Bank Routing Number Bank Account Number Check Number

Bank name:

Checking or Savings  
Account Number:

Bank Phone Number:

ABA Routing Number

Access to Fax Machine Suggested

**Submit This Form**

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Paige Stennis -- Springfield, IL

"Summer driving in Chicago city traffic killed my car's air and I needed a new condenser unit. I wanted \$400 quick and easy."

## How 1000-Loan-Payday.com Works

**IS IT REALLY FAX FREE APPROVAL?**

YES. "No faxing required" means just that.

## Our Unique 24-7 FaxLess<sup>SM</sup> Payday Loan Processing Totally Eliminates Faxing Forever!!

With our online 24-7 FaxLess<sup>SM</sup> processing, faxing is eliminated. FaxLess<sup>SM</sup> means that your application is completed online in minutes and you're finished/done. Our total online process gets rid of sending and receiving faxes-TOTALLY!

### Payment Options

#### 1-REFINANCE AND PAY THE FINANCE CHARGE ONLY

We will **ONLY** debit the finance charge on your loan due date **UNLESS** you notify us. Remember, this will be done **automatically** on your due date, and the funds will be debited from your checking account. You do **NOT** have to do anything if you choose this option.

**IMPORTANT - IF YOU WANT TO DECLINE THIS OPTION AND PAY DOWN A PORTION OF YOUR PRINCIPAL AMOUNT OR PAY OFF THE ENTIRE LOAN, YOU MUST NOTIFY US AT (866) 539-7504 OR BY FAX AT (866) 539-7503 AT LEAST THREE FULL BUSINESS DAYS PRIOR TO YOUR DUE DATE. Remember, you will still owe your original loan amount along with another finance charge on your following payday.**

**IMPORTANT - You may only use this option four times. On the fifth time and each time thereafter, we will debit a minimum payment of \$50 towards your principal loan balance (\$100 on balances over \$500) PLUS your finance charge until the loan is paid in full. You then will have to wait seven days to reactivate your loan once it is paid in full.**

#### 2-PAY THE FINANCE CHARGE AND A PAYMENT TOWARDS YOUR LOAN AMOUNT

We will only debit the finance charge due PLUS a payment towards the principal amount of your loan due date. TO CHOOSE THIS OPTION, YOU MUST NOTIFY US NO LATER THAN THREE FULL BUSINESS DAYS PRIOR TO YOUR LOAN DUE DATE. Remember you will still owe a new finance charge PLUS your new loan balance on your following payday.

#### 3-PAY YOUR LOAN IN FULL

We will debit the full remaining loan balance PLUS the finance charge on your due date. TO CHOOSE THIS OPTION, YOU MUST NOTIFY US NO LATER THAN THREE FULL BUSINESS DAYS PRIOR TO YOUR LOAN DUE DATE.

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## Frequently Asked Questions

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### HOW DOES THIS WORK?

Just fill out the online application for instant pre-approval. If approved, your loan proceeds will be deposited directly into your personal checking account by ACH. **When your loan payment is due, we will automatically debit ONLY the finance charge from your checking account unless you want to pay the loan in full or other payment arrangements are made for a partial payment of your principal.** Additional fees will apply if you choose the option to extend your loan. This option may be used up to four times. If you choose to extend your loan, you will be required to make a payment on your principal. This will happen automatically unless you contact us for other arrangements.

### WHEN WILL I GET MY MONEY?

If approved, your loan amount will be deposited into your personal checking account the next business day (if approved by 6PM EST) by ACH. If you are denied, you will receive an e-mail notification. You can also call our fully automated system two hours after you complete your application to check your status.

### WHEN WILL I KNOW IF I AM APPROVED OR DENIED?

The approval/denial process takes minutes. If approved, you will have your money deposited into your account overnight. If you are denied, you will receive an e-mail. You can also call our automated system to check the status of your account.

### HOW MUCH IS THE FINANCE CHARGE?

The Annual Percentage Rate (APR) on a typical 14 day loan is 782.14%, which is \$30 every \$100.00 borrowed. Additional fees will apply if your loan is refinanced.

### WHEN DO I HAVE TO PAY THIS BACK?

In most cases, you will have to pay ONLY the finance charge on your next payday. If you

"I needed \$1,000 fast, so I chose 1000-loan-payday. You gave me what I wanted the next day." --  
Paige Stennis - Springfield, IL

"Summer driving in Chicago city traffic killed my car's air and I needed a new condenser unit. I needed \$400 quick and easy."



**WSI Claims Related, Definitions, Scholarship, etc.**

**Sponsor: Rep. Frank Wald, Co-Sponsors: Sen. Dick Dever and Rep. Jim Kasper**

**Definition of Child**

- Refines the definition of child under workers' compensation law.

WHY – A more precise definition is needed so only children actually dependent on an injured worker for support are considered when determining entitlement to benefits.

**Scholarships**

- Increases the maximum scholarship amounts ~~from \$3,000 per year to \$4,000 per year~~ for up to five years for spouses and dependent children of a worker who died as a result of a compensable work-related injury. Also increases the maximum amount that can be awarded annually in scholarships ~~from \$150,000 to \$200,000.~~

WHY – The costs of school and tuition have increased.

**Communication with Employers**

- Allows healthcare personnel to communicate directly with employers on claims of their employees

WHY – This provision makes it clear medical providers may communicate directly with an employer and is necessary due to HIPAA regulations. *PRIVACY ?*

**Social Security Number Use**

- Allows WSI to share social security numbers with medical facilities. Current law prohibits WSI from using the social security numbers of injured workers for this purpose without permission by the injured worker.

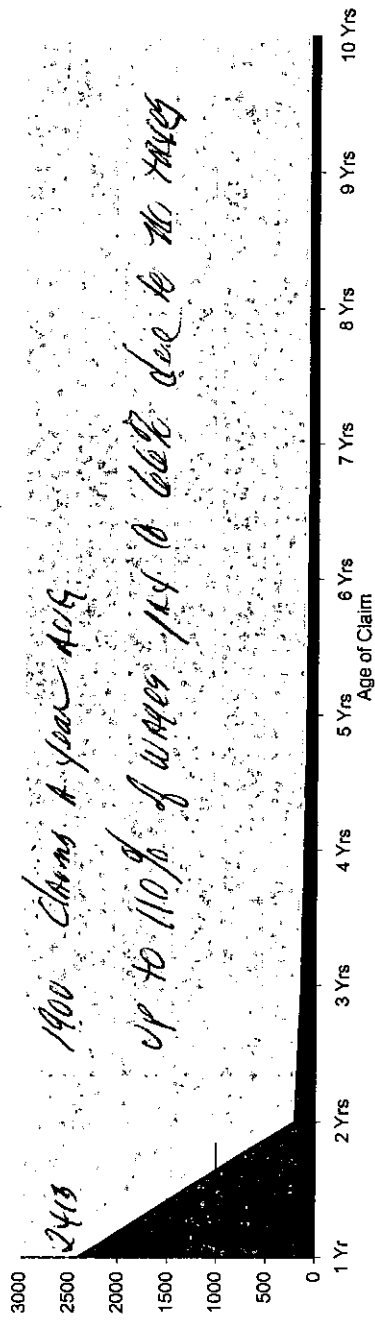
WHY – An injured worker's social security number is the most effective way to reference an injured worker when communicating with medical providers on a claim. It is usually the only guaranteed unique, matching identifier each party has in a claim.

**FISCAL NOTE:**

Scholarship costs will increase, however, the increase will not have a material impact on future premium levels.

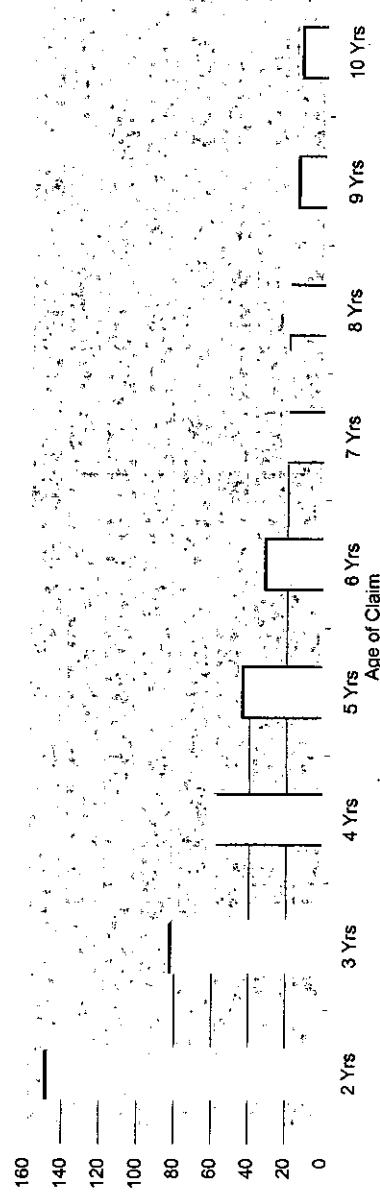
# Average Percentage of Open Time Loss Claims

Includes PT, Death, TT, TP and Rehab



Current Environment  
 Avg Open (%)  
 Avg Time Loss Claims  
 Avg Open Time Loss  
 Estimated PT  
 Estimated Death  
 Open TT, TP & Rehab

## Estimated Open TT, TP and Rehab Claims



Future Environment  
 Avg Open (%)  
 Avg Time Loss Claims  
 Avg Open Time Loss  
 Estimated PT  
 Estimated Death  
 Open TT, TP & Rehab



104  
Weeks

Doctor has Not Released IW to RTW (0%) & Not PTD

Total Possible  
Wage Replacement  
364 Weeks (7 Years)

▶ Temporary Partial Disability – 260 Weeks

Temporary  
Total  
Disability

▶ Doctor has Released IW to RTW (1% - 100%)

