

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1506

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1506

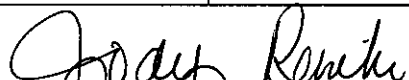
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1506

HOUSE INDUSTRY, BUSINESS AND LABOR

☐ Conference Committee

Hearing Date 1-31-05

Tape Number	Side A	Side B	Meter #
1	x		21.-end
3		x	5.1-13.3
Committee Clerk Signature 			

Minutes:

Rep. Keiser: Called the meeting to order on HB 1506. All committee members were present.

Representative Charging, District 4: Appeared in support of HB 1506. I'm trying to update the death benefits for single no dependents, as you can see currently the death benefit for ND is \$2,000.00 upon say the death of myself, single no dependent, this is behind the times and maybe inequitable in terms of what the value of a person in the prime of their career, and I bring this to you from a constituent, **Brenda Hall**, (mother) of **Levi Grant** (SEE ATTACHED TESTIMONY).

Dave Kemnitz President AFL-CIO: Appeared in support of bill, this is a good time to review this and look at what these numbers mean, the idea of dependents, they are dependent on you no matter the age, and lets address this issue.

Carole Two Eagle: Appeared in support of 1506. I'm single I have no dependents under tax law when I was younger I supported both my grandmothers, two aunts, usually one uncle and several

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB1506

Hearing Date 1-31-05

cousins, I come from a background of uneducated people I'm the first person and woman to go to college because my people valued education. My grandmother put her brothers and sisters through high school and she also had a high school education at a time when most people let alone women, and she did as a domestic. It's insulting to say that I'm only worth \$2,000.00.

Ron Forward, Staff Counsel, WSI: Appeared in opposition of HB 1506 and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Amerman: Move to **amend** HB 1506.

Representative Froseth: **SECOND** the motion to amend HB 1506.

Representative Nottestad: **I MOVE A DO PASS AS AMENDED** on HB 1506

Representative Thorpe: **SECOND** the **DO PASS AS AMENDED** on HB 1506

Motion carried. **VOTE: 11-YES 2-NO 1-Absent (EKSTROM)**

Representative Froseth will carry the bill on the floor.

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
02/04/2005

Amendment to: HB 1506

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		\$0		\$63,000		\$63,000
Expenditures		\$21,000		\$63,000		\$63,000
Appropriations		\$0		\$0		\$0

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: Non-dependency payments

BILL NO: Engrossed HB 1506

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 lump sum non-dependency payments from \$2,000 to \$12,500, the equivalent of 5% of the \$250,000 maximum total death benefit issued in death claims with dependents, and provides for retroactive application. Non-dependency benefits are issued in death claims of employees with no surviving spouse or dependent children.

Rate Level Impact: The number of death claims that result in non-dependency payments is approximately 3 per year. The proposed legislation will increase the payments for these cases from \$6,000 per year to \$37,500 per year, thus increasing required premium levels by approximately \$31,500 per year.

Reserve Level Impact: The proposed legislation applies retroactively to all recipients beginning November 29, 2004. There have been two instances of non-dependency claims since that date which would require an increase in reserve levels of \$21,000.

DATE: February 4, 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.*

see Narrative for Actuarial Impact statement required to conform with Section 54-03-25 of the NDCC relating to the potential impact on statewide rate and reserve levels.

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.*

see Narrative for Actuarial Impact statement required to conform with Section 54-03-25 of the NDCC relating to the potential impact on statewide rate and reserve levels.

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.*

No impact.

Name:	John L. Halvorson	Agency:	WSI
Phone Number:	328-3760	Date Prepared:	02/04/2005

FISCAL NOTE
Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1506

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: Non-dependency payments

BILL NO: HB 1506

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 lump sum non-dependency payments from \$2,000 to \$100,000 and provides for retroactive application. Non-dependency benefits are issued in death claims of employees with no surviving spouse or dependent children.

Rate Level Impact: The number of death claims that result in non-dependency payments is approximately 3 per year. The proposed legislation will serve to increase the payments for these cases from \$6,000 per year to \$300,000 per year, thus increasing required premium levels by approximately 0.3% or \$294,000 per year.

Reserve Level Impact: The proposed legislation applies retroactively to all recipients beginning November 29, 2004. There have been two instances of non-dependency claims since that date which would require an increase in reserve levels of \$196,000.

DATE: January 23, 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 Halvorson	Agency:	WSI
Phone Number:	328-3760	Date Prepared:	01/24/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1506

Page 1, line 9, overstrike "of", replace "one hundred" with "equal to five percent of the maximum total death benefits in section 65-05-17(1)"

Page 1, Line 10, overstrike "thousand dollars"

Renumber accordingly

Date: 1-31-05
Roll Call Vote #: ~~#8~~ 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1506

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to amend of 5%

Motion Made By Rep. Amerman Seconded By Rep. Froseth

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	A	A
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigasaa	X				

Total (Yes) 11 No 2

Absent (1) Rep. EKstrom

Floor Assignment _____

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

Date: 1-31-05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1506

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50643.0101 0200

Action Taken Do Pass As Amended

Motion Made By Rep. Nottestad Seconded By Rep. Thorpe

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	A	A
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby		X			
Rep. D. Vigesaa	X				

Total (Yes) 11 No 2

Absent (1) Rep. Ekstrom

Floor Assignment Rep. Froseth

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

REPORT OF STANDING COMMITTEE

HB 1506: Industry, Business and Labor Committee (Rep. Kelser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1506 was placed
on the Sixth order on the calendar.

Page 1, line 9, overstrike "of" and remove "one hundred"

Page 1, line 10, overstrike "thousand dollars" and insert immediately thereafter "equal to five
percent of the maximum total death benefits specified in subsection 1 of section
65-05-17"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1506

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1506
Non Dependency Payments in WSI

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 9, 2005

Tape Number	Side A	Side B	Meter #
2	X		#6.7 - #12.0
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1506.

Rep. Ken Svedjan, Chairman commented that this bill deals with Workforce Safety and Insurance and the most recent fiscal note we have is from February 4, 2005. This fiscal note shows an impact of \$63,000 in other funds on expenditure and \$63,000 in revenues in other funds.

Rep Froseth introduced the bill by saying that this bill will raise the lump sum payment made to the nondependent member of the family of the person who is killed in an accident and the benefits are provided by Worker's Compensation. Currently there is a lump sum of \$2000 paid in equal parts to the closest surviving relatives of nondependent children. We're raising that amount to 5% of the present death benefit to a family member which is \$250,000. So if the \$250,000 raises this benefit to nondependent who also received the raised amount of 5%. This raise to the nondependent family member to \$12,500. WSI calculated that there approximately

three of these payments that we pay out yearly for a total of \$37,500 per year getting the fiscal note figure of \$63,000 for the biennium.

Rep. Ken Svedjan, Chairman asked how revenues are generated.

Rep Froseth answered that the moneys come from the Workforce Safety and Insurance (WSI) trust fund.

Rep. David Monson asked if the reason for the change from \$10,000 to \$12,500 is an automatic change that follows along when the other one was changed.

Rep Froseth answered yes. We set this at 5% of the present death benefit for family member so if this death benefit for the family member changes than so would this nondependent benefit.

Rep. Mike Timm, Vice Chairman asked who the non dependency people would be.

Rep Froseth answered people like brothers, uncles, cousins, stepson who would share equal parts of the \$12,500.

Rep. Bob Skarphol asked if this was designed to cover the burial costs of someone who a family member feels responsible for.

Rep Froseth answered yes and to cover the administration costs of settling the estate of a nondependent member of the family.

Rep. Bob Skarphol asked who had the authority to raise the \$250,000 figure.

Rep Froseth answered that only the Legislature has the authority.

Rep. Francis J. Wald moved a Do Pass motion on HB1506

Rep. Bob Skarphol seconded

Rep. Ken Svedjan, Chairman asked if the WSI trust fund was adequate to sustain this cost.

Rep Froseth answered that WSI was confident that it would.

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House Appropriations Committee

Bill/Resolution Number HB1506

Hearing Date February 9, 2005

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass motion on HB1506.

The motion carried with a vote of 21 yeas, 0 neas, and 2 absences. Rep Froseth will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1506 and adjourned the meeting.

Date: February 9, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1506

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep Wald Seconded By Rep Skarphol

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	AB	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	AB	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 21 No 0

Absent 2

Floor Assignment Rep Froseth (IBL)

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

REPORT OF STANDING COMMITTEE (410)
February 9, 2005 3:52 p.m.

Module No: HR-26-2342
Carrier: Froseth
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1506, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed HB 1506 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1506

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1506

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-01-05

Tape Number	Side A	Side B	Meter #
2	xxx		1900-3300
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: **Chairman Mutch** opened the hearing on HB 1506. Senator Espegard was absent.

HB 1506 relates to providing non dependency payments in certain workforce safety and insurance cases.

Rep. Charging introduced the bill. See written testimony.

Senator Heitkamp: Do you foresee any scenario, by eliminating the two thousand and going to five percent of the total maximum total benefit. Do you see a scenario where that might cost some family money?

Rep. Charging: Yeah. But with the five percent, I don't think it will be less than two thousand.

Chairman Mutch: The five percent of what? How many dollars?

Rep. Charging: Five percent of the maximum total death benefit. Two hundred and fifty thousand.

Senator Nething: It goes to twelve thousand five hundred.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1506

Hearing Date 3-01-05

Senator Krebsbach: She has provided us with the maximum burial allowance, however, this is a death benefit. Is there a sheet similar to this on the death benefit?

Rep. Charging: I don't know. I do know that we have had fourteen claims in the last two years that would have benefited these families.

Rob Forward, staff counsel for WSI, spoke in support of the bill. See written attached testimony.

Dave Kemnitz, AFL-CIO, stated his support for the bill.

There was no opposition.

The hearing was closed.

Senator Heitkamp moved a DO PASS. Senator Nething seconded.

Roll Call Vote: 6 yes. 0 no. 1 absent.

Carrier: Senator Klein

Date: 3-01-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1506

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Heitkamp Seconded By Nothing

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE (410)
March 1, 2005 1:28 p.m.

Module No: SR-37-3843
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1506, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1506 was rereferred to the Appropriations Committee.

2005 SENATE APPROPRIATIONS

HB 1506

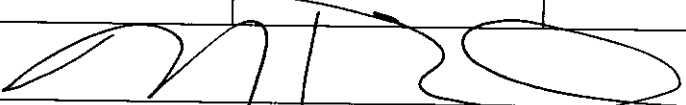
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1506

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 03/09/05

Tape Number	Side A	Side B	Meter #
1		x	772-1735
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened hearing on HB 1506.

Rep. Charging, District 4 appeared in support of HB 1506. Please note that Rep. Charging is one of the sponsors of this bill.

Rob Forward, WSI Staff Council, appeared in support of HB 1506. . Mr. Forward provided an overview and explained the purpose of the bill. A copy of written testimony will be supplied to the committee at a later date.

Sen. Mathern: Why don't we just pay this benefit to the state?

Mr. Forward: That is a good question, it would make good sense.

Sen. Andrist: \$ 12,500 is overly funded as a payment to a dependent child, why do we go to a nondependent child.

Mr. Forward: Keep in mind, of the 50 states, 40 do not give a benefit to nondependent family members.

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Senate Appropriations Committee

Bill/Resolution Number HB 1506

Hearing Date 03/09/05

Rep. Charging, stated to the committee that this bill is a result of the 4 bears bridge tragedy, and that single individuals do not have estate plans. She also stated that she will bring the testimony in from the mother of a young man that died working on the bridge.

A **DO PASS** motion was made by Sen. Andrist, seconded by Sen. Fischer. Roll call vote was taken, 10 yeas, 0 nays, and 5 absent and not voting.

Chairman Holmberg closed hearing on HB 1506.

Date 3/9/05
Roll Call Vote #: 7

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~87~~ 1506

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By A

Seconded By Fish

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER		
VICE CHAIRMAN BOWMAN			SENATOR LINDAAS		
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER					
SENATOR THANE	/				

Total (Yes) 10 No 0

Absent 5

Floor Assignment IB&C

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

REPORT OF STANDING COMMITTEE (410)
March 9, 2005 2:17 p.m.

Module No: SR-43-4546
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1506, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (10 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING).
Engrossed HB 1506 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1506

Charging, Dawn M.

From: Halvorson, John L.
Sent: Tuesday, January 11, 2005 1:54 PM
To: Charging, Dawn M.
Subject: WC Non-Dependency Awards

Rep. Charging,

Mary Marthaller informed me of your information request relating to the number of death claims that result in a \$2,000 non-dependency benefit. This benefit is issued in death claims where no dependents exist. Over the past 5 years we have had 14 claims that fall into this category. Should you need additional information or would like to discuss this further, you can contact me at 328-3760.

John Halvorson

MEMO

TO: DAWN CHARGING
FROM: REED SODERSTROM
RE: WORKER'S COMP PROPOSED BILL
DATE: 1-30-05

HB 1506

Thank you again for your support of this bill. I'm sorry I cannot make it down there to testify in the a.m. as I need to fly to Phoenix. I told Brenda Hall about this trip a month or so ago and it is important that I get to Arizona.

I do not know if Brenda will make it down to testify as she was hesitant but I asked her to do what her heart told her to do. Throughout I refer to the entity as Worker's Compensation, but that is the old name, the new name is Workforce Safety and Insurance, WSI.

1. I recommend you get a continuance to another date if you can to have testimony on this bill.
2. If you can't I believe the bill is necessary for a number of reasons:
 - A. Justice, it's not about money
 - B. Less than an average of 3 people die each year that do not have a wife or dependents. They are only given \$2000.00 to their estate to distribute amongst family members. The amount of money is a huge disappointment. Possibly in some of these cases, the employer is at fault for the death. Worker's compensation laws shield the employer from liability, and there is no compensation for the employee. This needs to be corrected.
 - C. If another entity other than the employer is at fault, a civil suit may bring money and under the current worker's compensation laws, worker's compensation would get reimbursed monies expended for the death of an employee.
 - D. It is an insult to offer a grieving family \$2,000. While \$100,000 is not sufficient, it is a fair amount that Worker's Compensation should be able to afford, and if they say they can't afford that kind of coverage for the approximately 3 workers each year that die without a spouse or children, then they should take steps to adequately compensate those that have died while on the job.

To: Industry, Business and Labor Committee

Chairman George Keiser

From: Brenda F. Hall

Regarding : Levi's Law

I'm the Mother of the Levi Grant. He was killed in a tragedy while working on the Four Bears Bridge Project in New Town , North Dakota . My Representative from District Four, Dawn Charging has introduced this bill to the Legislature and it was written up by Attorney Reed Soderstrom. I'm very sorry that I can't be there on behalf of My Son . I'm currently suffering from the loss of my Son and am very emotional .

Since this has happened I am presently getting help from Mental Health. My Other Son Gaylord Gilly Grant was in this accident also and was injured and traumatized by what has happened to him as well as the loss of his Brother, waking up from nightmares and no feeling in his left foot. (it's still bruised) with torn tissues and ligaments. Since his inner thigh was crushed, he still has cramping in that leg where be rebar landed. Gilly was hanging above the water only a few feet when the rebar fell. My Family is dealing with a lot. Mr. Chairman and Committee Members, this is a very hard time for my Family as well as myself and there seems to be no closure in sight.

I would like to tell you about my Son that is gone, Levi Grant . He was raised on the Fort Berthold Reservation on a Ranch . He worked hard and had plans for his future . He went to work on the Bridge Project a little after it started . He had very good work ethics. I don't knock welfare if you need it, but I've raised my Son's telling them not to get welfare unless it was extremely necessary. Levi enjoyed working, and always had a good work record . He was the kind of Guy that if you told him what to do he'd go out and do it. If he was called in he would go. Levi was the Cowboy that everyone liked to be around. He would break horses and ride for ranchers in this area. He would help take care of his brothers and help with the Family. He would feed, hay or help his brothers or sister when they were in need of things. He was very encouraging to his brothers and to his sister who are all young adults. Despite Levi's brother's being young adults they depended on him as did I. Levi wasn't married and didn't have any children. It was a shock to find out that through Work Safety and Insurance your life is worth \$2000.00. If he would have had a wife and children they may have been paid up to Two Hundred and fifty thousand dollars. Mr. Chairman and Members of this Committee, this monetary awards do not equate to justice, the amounts devalue human life and do not in any way come close to providing any type of realistic approach to the loss of a loved one. Put simply, the compensation packages delivered by WSI is not fair. This is not about greed or money. This is only about justice and doing what is fair.

Thank you for your time .

HB1506

My Phone Number and Address

Brenda F. Hall

9550 BIA Rt. 12

Mandaree., North Dakota

58757

Phone 701-759-3523

presumptive evidence of the degree of permanent impairment of the employee which can only be rebutted by clear and convincing evidence. This subsection does not impose liability on the organization for an impairment award for a rating of impairment for a body part or condition the organization has not determined to be compensable as a result of the injury. The employee bears the expense of witness fees of the independent doctor or doctors if the employee disputes the findings of the independent doctor or doctors.

13. An attorney's fees are not payable unless there is a bona fide dispute as to the percentage of the employee's permanent impairment or unless there is a dispute as to the employee's eligibility for an award for permanent partial impairment. An attorney's fees payable in connection with a permanent impairment dispute may not exceed twenty percent of the additional amount awarded upon final resolution of the dispute, subject to the maximum fees established pursuant to section 65-02-08.
14. An attorney may not seek or obtain from an employee through a contingent fee arrangement, or on a percentage basis, costs or fees payable in connection with the award or denial of compensation for permanent impairment. A permanent impairment award is exempt from the claims of creditors, including an employee's attorney, except as provided by section 65-05-29.

65-05-13. Scheduled injuries - Permanent loss of member - Compensation - Time compensation payable. Repealed by S.L. 1995, ch. 624, § 2.

65-05-14. Scheduled injuries - Partial loss of use of member - Weekly compensation time - Compensation payable. Repealed by S.L. 1995, ch. 624, § 2.

65-05-15. Aggravation awards. When a compensable injury combines with a noncompensable injury, disease, or other condition, the organization shall award benefits on an aggravation basis, on the following terms:

1. In cases of a prior injury, disease, or other condition, known in advance of the work injury, which has caused previous work restriction or interference with physical function the progression of which is substantially accelerated by, or the severity of which is substantially worsened by, a compensable injury, the organization shall pay benefits during the period of acute care in full. The period of acute care is presumed to be sixty days immediately following the compensable injury, absent clear and convincing evidence to the contrary. Following the period of acute care, the organization shall pay benefits on an aggravation basis.
2. If the progression of a prior compensable injury is substantially accelerated by, or the severity of the compensable injury is substantially worsened by a noncompensable injury, disease, or other condition, the organization shall pay benefits on an aggravation basis.
3. The organization shall pay benefits on an aggravation basis as a percentage of the benefits to which the injured worker would otherwise be entitled, equal to the percentage of cause of the resulting condition that is attributable to the compensable injury. Benefits payable on an aggravation basis are presumed to be payable on a fifty percent basis. The party asserting a percentage other than the presumed fifty percent may rebut the presumption with clear and convincing evidence to the contrary.
4. When an injured worker is entitled to benefits on an aggravation basis, the organization shall still pay costs of vocational rehabilitation, burial expenses under section 65-05-26, and dependency allowance on a one hundred percent basis.

65-05-16. Death benefits payable.

1. The organization may pay benefits under this chapter in the case of the death of an employee as the direct result of an injury sustained in the course of the employee's employment when:
 - a. If there has been no disability preceding death, the death occurs within one year after the date of the injury;
 - b. If there has been disability preceding death, the death occurs within one year after the cessation of disability resulting from the injury; or
 - c. If there has been disability which has continued to the time of death, the death occurs within six years after the date of injury.
2. The organization may not pay death benefits unless a claim is submitted within two years of the death and:
 - a. The death is a direct result of an accepted compensable injury; or
 - b. If no claim was submitted by the deceased, the claim for death benefits is submitted within two years of the injury.

65-05-17. Weekly compensation allowances for death claims. If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified:

1. To the decedent's spouse or to the guardian of the children of the decedent, an amount equal to the benefit rate for total disability under section 65-05-09. All recipients of benefits under this subsection are eligible for benefits at the rate provided in this section, regardless of the date of death of the deceased employee. These benefits continue until the death of the decedent's spouse; or, if the surviving children of the decedent are under the care of a guardian, until those children no longer meet the definition of "child" in this title. If there is more than one guardian for the children who survive the decedent, the organization shall divide the death benefits equally among the children and shall pay benefits to the children's guardians. Total death benefits, including supplementary benefits, paid on any one claim may not exceed two hundred fifty thousand dollars.
2. To each child of the deceased employee, the amount of ten dollars per week. This rate must be paid to each eligible child regardless of the date of death. The organization may pay the benefit directly to the child of the deceased employee or to the surviving parent or guardian of the child. Dependency allowance may not be reduced by the percentage of aggravation.
3. In addition to the payments provided under subsections 1 and 2, a payment in the sum of twelve hundred dollars to the decedent's spouse or the guardian of the children of the decedent and four hundred dollars for each dependent child. If there is more than one guardian of the decedent's surviving children, the twelve hundred dollars must be divided equally among the children and paid to the children's guardians.

65-05-18. Provisions of section 65-05-17 retroactive. Repealed by omission from this code.

65-05-19. Providing nondependency payments in certain cases. If the death of an employee with no surviving spouse or dependent children results from an injury within the time specified in section 65-05-16, the organization shall pay a lump sum of two thousand dollars to the surviving nondependent child, or in equal shares to the surviving nondependent children. In the event that no nondependent child is living, the sum provided herein shall be paid in equal shares to the surviving parents of the deceased, and if there are none, then to the deceased

employee's living brothers and sisters. If there are no living brothers or sisters, the sum herein shall be paid in equal shares to the surviving grandparents, if any, of the deceased employee.

65-05-20. Dependents have option of accepting amount of nondependency payments in lieu of dependency compensation. Repealed by S.L. 1969, ch. 565, § 2.

65-05-20.1. Scholarship fund - Rules. The organization may establish a scholarship fund to provide scholarships for the spouse and dependent children of a worker who dies as a result of a compensable work-related injury, if the spouse and children have received benefits under section 65-05-17. The organization may also grant scholarships to injured workers for whom the organization determines a scholarship would be beneficial and appropriate because of exceptional circumstances as determined by the organization. Scholarships are payable to an accredited institution of higher education or an institution of technical education on behalf of a student attending that institution. The total amount awarded annually in scholarships may not exceed one hundred fifty thousand dollars. The maximum amount payable on behalf of an applicant is three thousand dollars per year for no more than five years. Scholarships must be awarded by a panel chosen by the organization. The organization shall adopt rules establishing selection criteria and obligations associated with the program and identifying information an applicant is required to submit to determine an appropriate scholarship award. There is no right to reconsideration, rehearing, or appeal from any decision regarding the award, denial, or amount of a scholarship.

65-05-21. Marriage settlement to spouse. If a spouse who receives compensation under the provisions of subsection 1 of section 65-05-17 remarries, there shall be paid to such spouse a lump sum equal to one hundred four weeks' compensation. If, prior to such marriage, such spouse has received a partial lump sum settlement which covers all or any portion of the said one hundred four weeks following such spouse's marriage, the amount of such partial lump sum settlement which covers all or any part of the said one hundred four weeks following such spouse's marriage shall be deducted from such marriage settlement, and the spouse shall receive only the remainder, if any, over and above such deduction. Any judgment annulling such marriage shall not reinstate the right of such spouse to compensation if the action for annulment is instituted more than six months after the marriage. The provisions of this section apply only to remarriages that occur before August 1, 2003, regardless of the date of injury or date of death of the decedent.

65-05-22. Adjustment on cessation of compensation for death to one beneficiary. Upon the cessation of compensation payable to a beneficiary under the provisions of this chapter, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable, shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

65-05-23. Organization may modify apportionment of benefits in certain cases. Repealed by S.L. 1997, ch. 545, § 6.

65-05-24. Accepting compensation after marriage - Penalty. Repealed by S.L. 2003, ch. 562, § 13.

65-05-25. Lump sum settlements - Granted in discretion of organization - How computed.

1. If an employee is determined to be permanently and totally disabled, the organization may pay the employee a lump sum equal to the present value of all future payments of compensation. The probability of the employee's death before the expiration of the period during which the employee is entitled to compensation must be determined by generally accepted mortality studies. The organization may not pay the employee a lump sum unless it has first determined that there is clear and convincing evidence that the lump sum payment is in the best interest of the employee. Best interest of the employee may not be deemed to exist because the

employee can invest the lump sum in another manner to realize a better yield. The employee must show a specific plan of rehabilitation which will enable the employee to return to work as a productive member of society.

2. The organization and an employee may compromise to resolve a disputed claim. The contract of settlement made is enforceable by the parties. The contract may provide that the employee shall utilize the funds to engage in certain rehabilitation programs. If the employee breaches the contract, the organization may require the employee to repay the benefits received under the agreement. In cases in which the extent of disability is disputed and resolved by agreement, the concept of reopening a disability claim due to significant change in medical condition is inapplicable.
3. If death results from an injury under the conditions specified in section 65-05-16, the organization may pay the decedent's spouse or the guardian of the decedent's children a lump sum equal to the present value of all future payments of compensation.
4. Notwithstanding any other provision of law, structured settlements may be used to resolve a dispute or to provide for payment of ongoing future benefits. The organization may contract with a third-party vendor to provide structured settlement payments.

65-05-26. Burial expenses. If death benefits are payable under section 65-05-16, the fund shall pay to the facility handling the funeral arrangements of the deceased employee burial expenses not to exceed six thousand five hundred dollars.

65-05-27. Organization without probate proceedings may pay spouse of deceased claimant sum due deceased - Maximum payment. If a compensation claimant dies, the organization, without probate proceedings, may pay to the spouse of such claimant, if living, or in the event of the claimant's spouse's death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the said claimant, the amount actually due claimant's estate, not to exceed the sum of one thousand dollars.

65-05-28. Examination of injured employee - Paid expenses - No compensation paid if claimant refuses to reasonably participate. Every employee who sustains an injury may select a doctor of that employee's choice to render initial treatment. Upon a determination that the employee's injury is compensable, the organization may require the employee to begin treating with another doctor to better direct the medical aspects of the injured employee's claim. The organization shall provide a list of three doctors who specialize in the treatment of the type of injury the employee sustained. At the organization's request, the employee shall select a doctor from the list. An injured employee shall follow the directives of the doctor or health care provider who is treating the employee as chosen by the employee at the request of the organization and comply with all reasonable requests during the time the employee is under medical care. Providing further that:

1. No employee may change from one doctor to another while under treatment or after being released, without the prior written authorization of the organization. Failure to obtain approval of the organization renders the employee liable for the cost of treatment and the new doctor will not be considered the attending doctor for purposes of certifying temporary disability.
 - a. Any employee requesting a change of doctor shall file a written request with the organization stating all reasons for the change. Upon receipt of the request, the organization will review the employee's case and approve or deny the change of doctor, notifying the employee and the requested doctor.
 - b. Emergency care or treatment or referral by the attending doctor does not constitute a change of doctor and does not require prior approval of the organization.

2005 House Bill No. 1506
Testimony before the House Industry, Business, and Labor Committee
Presented by: Rob Forward, Staff Counsel
Workforce Safety and Insurance
January 31, 2005

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

My name is Rob Forward and I am staff counsel for Workforce Safety and Insurance (WSI). I am here to testify in opposition to HB 1506 which proposes to substantially increase the benefit for non-dependent relatives of a worker who dies as a result of a work related injury. The WSI Board of Directors opposes this bill.

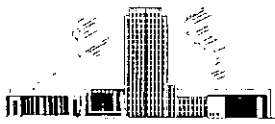
In North Dakota, WSI pays death benefits to the spouse and dependent children of the worker killed in a work-related accident. WSI also pays all medical bills directly related to the death of a worker, including up to six thousand five hundred dollars for funeral expenses. If the deceased worker is not survived by a spouse or other dependent children, WSI will pay a lump sum of two thousand dollars in equal parts to the closest surviving relative beginning with non-dependent children, then parents, followed by brothers and sisters, and finally grandparents.

If an injured worker died without a spouse, an extended family member or non-dependent child would presumably bear the responsibility of administering the estate. With the exception of the payment of up to six thousand five hundred dollars for funeral expenses and two thousand dollars in non-dependency, these family members were not, and currently are not, eligible for any other benefits under North Dakota workers' compensation law. The non-dependency payment was created to help extended family members of a deceased injured worker with the incidental expenses of administering their estate.

WSI opposes this bill because the suggested increase of the non-dependency payment amount from two thousand dollars to one hundred thousand dollars does not correlate with the original intent of helping with estate administration. The proposed amount is well beyond the cost of such incidentals. If HB 1506 were passed, it would transform the non-dependency payment into a form of life insurance. This is clearly contrary to the general purpose and role of workers compensation which is to pay medical and wage replacement benefits.

Lastly, providing a significant award to non-dependent relatives is rare in the United States. Forty-one states and the District of Columbia cover burial expenses only and do not provide a non-dependency payment.

For the stated reasons, WSI asks for a "do not pass" recommendation on HB 1506. I would be glad to answer any questions that you may have.



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Dawn Marie Charging
District 4
7276 14th Street NW #16
Garrison, ND 58540
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COMMITTEES:
Judiciary
Natural Resources

1/31/05

IBL Chairman Keiser
& Committee members -

Please accept this sheet of
Additional information regarding
HB 1506.

Speaking with WSI AFTER the
hearing - it was brought to my attention
that one could Amend the description
of who is considered as a "dependent"
of course, "unofficially" as advice
to share with the Committee.

Thank you all for your kind
consideration, I encourage you to contact
Levi Grants Motue Brenda Hall.

Thank you
Rep. Dawn Charging
DIST #4

(In effect as of January 1, 2004*)
TABLE 13. MAXIMUM BURIAL ALLOWANCES

Jurisdiction	Maximum Amount	Jurisdiction	Maximum Amount
Alabama.....	\$ 3,000	Nevada <u>6/</u>	\$ 5,000
Alaska.....	5,000	New Hampshire.....	5,000
Arizona.....	5,000	New Jersey.....	3,500
Arkansas.....	6,000	New Mexico.....	7,500
California.....	5,000	New York.....	<u>7/</u>
Colorado.....	7,000	North Carolina.....	3,500
Connecticut.....	4,000	North Dakota.....	6,500
Delaware.....	3,500	Ohio.....	5,500
District of Columbia...	5,000	Oklahoma.....	<u>8/</u>
Florida.....	7,500	Oregon.....	<u>9/</u>
Georgia.....	7,500	Pennsylvania <u>10/</u>	3,000
Hawaii.....	<u>1/</u>	Puerto Rico.....	1,000
Hawaii <u>2/</u>	6,000	Rhode Island.....	15,000
Illinois.....	4,200	South Carolina.....	2,500
Indiana.....	6,000	South Dakota <u>11/</u>	5,000
Iowa.....	7,500	Tennessee.....	7,500
Kansas.....	5,000	Texas.....	6,000
Kentucky.....	<u>3/</u>	Utah <u>12/</u>	8,000
Louisiana.....	7,500	Vermont <u>13/</u>	5,500
Maine <u>4/</u>	4,000	Virginia <u>14/</u>	10,000
Maryland <u>5/</u>	5,000	Virgin Islands.....	4,000
Massachusetts.....	4,000	Washington.....	<u>15/</u>
Michigan.....	6,000	West Virginia.....	<u>16/</u>
Minnesota.....	15,000	Wisconsin.....	6,000
Mississippi.....	2,000	Wyoming <u>17/</u>	5,000
Missouri.....	5,000	United States**:	
Montana.....	4,000	FECA <u>18/</u>	800
Nebraska.....	6,000	LHWCA.....	3,000

*See Introduction page.

**Federal Employees' Compensation Act;
Longshore and Harbor Workers' Compensation Act.

2005 Engrossed House Bill No. 1506
Testimony before the Senate Industry, Business, and Labor Committee
Presented by: Rob Forward, Staff Counsel
Workforce Safety and Insurance
March 1, 2005

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

My name is Rob Forward and I am staff counsel for Workforce Safety and Insurance (WSI). I am here to testify in support of Engrossed HB 1506 (HB 1506). In its original version, this bill proposed to substantially increase the non-dependency benefit from two thousand dollars to one hundred thousand dollars. The WSI Board of Directors opposed the original version of the bill because the suggested increase was: a) out of proportion with the law's original intent of helping with estate administration; and, b) would have transformed the non-dependency benefit into a form of life insurance. This was clearly contrary to the general purpose and role of workers compensation which is to pay medical and wage replacement benefits.

In North Dakota, WSI pays death benefits to the spouse and dependent children of the worker killed in a work-related accident. WSI also pays all medical bills directly related to the death of a worker, including up to six thousand five hundred dollars for funeral expenses. Currently, if the deceased worker is not survived by a spouse or other dependent children, WSI will pay a lump sum of two thousand dollars in equal parts to the closest surviving relative(s) beginning with non-dependent children, then parents, followed by brothers and sisters, and finally grandparents.

If an injured worker died without a spouse, an extended family member or non-dependent child would presumably bear the responsibility of administering the estate. The non-dependency benefit was created to help extended family members with the incidental expenses of administering their estate.

In light of the fact that the non-dependency benefit had not been increased since the late 1970's, WSI's Board of Directors proposed an amendment to HB 1506 which supported a more appropriate increase. The engrossed bill proposes to increase the amount of the non-dependency benefit from two thousand dollars to five percent of the cap on death benefits payable to surviving spouses and dependent children of workers killed on the job. The cap is currently two hundred fifty thousand dollars and five percent of this amount is equal to twelve thousand five hundred dollars. The advantage of using a fixed percentage for the non-dependency benefit is that it will allow the benefit to remain as a constant percentage of the total death benefit cap should it increase in the future.

In total, non-dependency claims will be eligible for the payment of all medical expenses related to the claim, six thousand five hundred dollars for funeral expenses, and a lump sum payment of twelve thousand five hundred dollars. WSI asks for a "do pass" recommendation on Engrossed HB 1506. I would be glad to answer any questions that you may have.