

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1523

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1523

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1523

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-8-05

Tape Number	Side A	Side B	Meter #
2		x	0-end
3	x		0-1.1
3	x		16.7-17.6
3		x	2.7-7.5
Committee Clerk Signature <i>Jody Reinke</i>			

Minutes:

Chairman Keiser: Opened the hearing on HB 1523.

This is a very simple bill, there are occasions where an injured worker files a claim and the bureau (WSI) goes through the process and for what ever reason, makes a determination to not accept the claim, well the claimant is required to back to the bureau to have it reconsidered to make sure that they did the right thing, now imagine if you would going to court and having a judge making a ruling in your case and now you have to go back to the same judge and ask for him to reconsider the ruling, occasionally the bureau does change its position on those kinds of issues, the point they raised as policy makers the legislature on occasion a chance to hear from the claimants directly and review and investigate individual cases. As the members of this committee know, we can't do that, or we haven't ever set up a system to do that, and what this bill does is very simply try to achieve that end. It will establish for only the next interim, it has a sunset provision, a regular legislative interim committee, that will be set up and meet only for the

purpose of having injured workers, claimants, who feel like they have some issues that were not resolved by WSI to come forward and present them to this interim committee. We all know that there have been stories in the media that this person said this, that person said that, as individual legislators, how often to you have an injured worker come to you. We can't do anything because of confidentiality, or unless we can get a release signed. This sets up an interim committee of 6 people, the majority leaders in both houses shall appoint 2, the minority leaders will appoint 1, I will share with the committee, that originally I had attempted with LC to craft language that would have allowed the claimant to select whether or not to have an opened meeting or closed, this was really to encourage claimants to come forward. If there are problems out there let us hear about them. But LC said they cannot do that, it violates state law, it must by law be an opened the meeting on record meeting. This is a formal interim committee and as a result there will be an interim committee report of the activities and directions and any bills that might be developed or recommendations.

Rick Berg, Majority Leader: The last decade my goal in WSI has been, when there is an injury, lets identify it right away and take care of it as quickly as you can for the best treatment that we can possibly give. One of the barriers that I see, that if I was an injured worker I'm a little intimidated by this environment. I believe in communication and that we can make WSI better then it is today and make it more responsive to people that are injured. My desire here is to get some of the people who best understand the issues, create an environment that is not like this, but sits down with 6 people that can make decisions. If there are ideas that make the process better, I want them to be informing WSI. This is really to say that some one has gone through the process and are dissatisfied that it did not serve them well, so they have full information that they can

come to the committee with. The purpose of this committee is to look at those people that have gone through the process and are dissatisfied and all the checks and balances that people claim are there, they would have already exhausted those and if we started that earlier, my thought would be in response that they haven't had a check or balance.

Sandy Blunt, Executive Director & CEO, Workforce Safety & Insurance: Appeared in support of bill and provided a written statement (**SEE ATTACHED TESTIMONY**).

Representative Ekstrom: One of the key areas that I am most concerned about is the office of independent review, and again we are looking at a time down the road, and I think that overall they do a wonderful job, but what kind of interaction do you perceive in terms of WSI coming in and addressing the particular issues, if they have trouble with the office of independent review or an independent medical exam. How do think we would set that up so they will understand what the process is and what we might do to be able to fix it.

Sandy Blunt: We have to get through all of our correspondence to make sure these things work at this stage and received a letter of some notice, that this has been available to them, you may or not be aware that the office of independent review reports directly to the chairperson of the audit committee of the board with an indirect reporting relationship of the day to day management, I think I still have the responsibility to make sure that they are getting all of the support necessary, since I'm the manager of WSI, and I don't want to control the decisions they make. They have a right to make a decision that is contrast to what the agency has made. We are working diligently to make u pa much better tracking system so when asked by you or others what were the ratio, how did they win, did they win, what were the numbers, we can produce those immediately.

Dave MacIver, President, ND Chamber of Commerce: Appeared in support of the bill, it is a good piece of legislation, there have been some questions about the makeup of this committee, my guess that a lot of those people are sitting in this room right now and have a lot of care and empathy for the injured worker. The sunset provision is something else that we really like about the bill and another thing is that the committee has the power to make recommendations for legislation, not to go and tell the board what they can or cannot do with injured workers.

Dave Kemnitz, President, ND AFL CIO: Appeared in support of bill, this is an excellent opportunity to come before you and dig into some of the facts. there is a concern on page 2, lines 1-3, limited to the exhausted administrative and judicial appeals process. Because of their desperation claimants signed settlements what they thought were maybe to early. If you would in those lines add....."or claimants signs a settlement", another concern is the medical information you may want to consider focusing it down pertinent to the case or the questions. Items that come before arbitrators have been absolutely unnecessary in the past, but they were part of what you reviewed in the information given you and I'm concerned that once it gets to you, it could be construed by others as being public information.

Representative Dosch: I MOVE a DO PASS on HB 1523.

Representative Dietrich: I SECOND the motion.

Motion carried **VOTE: 14-YES 0-NO 0-Absent.**

Representative Amerman will carry the bill on the floor.

Representative Boe: I MOVE that we RECONSIDER our actions on HB 1523.

Representative Johnson: I SECOND the motion to reconsider our actions.

Motion carried voice vote.

Page 5

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1523

Hearing Date 3-8-05

Representative Vigesaa: I move to ADOPT amendments on HB 1523.

Representative Clark: I SECOND the adoption motion.

Motion carried VOTE: 14-YES 0-NO 0-Absent.

Representative Ekstrom: I move a DO PASS AS AMENDED on HB 1523

Representative Dietrich: I SECOND the DO PASS AS AMENDED.

Motion carried VOTE: 14-YES 0-NO 0-Absent.

Representative Amerman will carry the bill on the floor.

FISCAL NOTE
Requested by Legislative Council
03/03/2005

Bill/Resolution No.: HB 1523

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			\$12,968			
Appropriations			\$12,968			

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.*

This bill requires the Legislative Council to create a six-member interim workers' compensation review committee to review workers' compensation claims for the purpose of determining whether changes should be made to workers' compensation laws.

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.*

The amounts shown reflect the estimated cost of a six-member legislative committee for the 2005-06 interim. Additional costs, which are not shown above, may be incurred if the committee needs to contract for consulting services for assistance in reviewing workers' compensation claims.

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.*

The amounts shown reflect the estimated cost of a six-member legislative committee for the 2005-06 interim.

Name:	Jim W. Smith	Agency:	Legislative Council
Phone Number:	328-2916	Date Prepared:	03/03/2005

Date: 3806

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1523

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Dosch

Seconded By

Rep. Dietrich

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	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Amerman

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

Roll Call Vote #: 2 Date: 3-8-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1523

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider actions Voice vote

Motion Made By Rep. Boe Seconded By Rep. N. Johnson

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

Total (Yes) 13 No 0

Absent (1) Rep Kasper

Floor Assignment _____

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

March 8, 2005

VR
3/9/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1523

Page 2, line 6, after "records" insert "and to allow the committee members and workforce safety insurance representatives to discuss the records in an interim committee hearing"

Page 2, line 9, after "confidential" insert ", however, pursuant to the constituent's authorization, information contained in the records may be discussed by the committee members and workforce safety and insurance representatives in an interim committee hearing"

Renumber accordingly

Roll Call Vote #: 3 Date: 3-8-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1523

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Rep. Vigesaa Seconded By Rep. Clark

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	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment _____

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

Roll Call Vote #: 4 Date: 3-8-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 1523

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. Ekstrom Seconded By Rep. Dietrich

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	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Amerman

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

REPORT OF STANDING COMMITTEE

HB 1523: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1523 was placed
on the Sixth order on the calendar.

Page 2, line 6, after "records" insert "and to allow the committee members and workforce
safety insurance representatives to discuss the records in an interim committee
hearing"

Page 2, line 9, after "confidential" insert ", however, pursuant to the constituent's authorization,
information contained in the records may be discussed by the committee members and
workforce safety and insurance representatives in an interim committee hearing"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1523

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1523

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-29-05

Tape Number	Side A	Side B	Meter #
1	xxx		70-3268
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: **Chairman Mutch** opened the hearing on HB 1523. All Senators were present.

HB 1523 relates to creation of a legislative council workers' compensation review committee.

Sandy Blunt, CEO of Workforce Safety and Insurance, introduced the bill. See written testimony.

David Straley, Chamber of Commerce, spoke in support of the bill. See written testimony.

Senator Fairfield: (Quoting from David's testimony) The business community has testified in support of several bills that have helped injured workers, for example, could you give me a few?

David: The increase in scholarship, the amount that goes to that person, the bill that increased the availability of the student loan, the third is the additional benefits payable. There was an increase in that amount. Increase in non-dependancy payments.

Senator Fairfield: Do you know how many bills you have testified on that would have been negative to the worker?

David: We have actually increased several benefits to injured workers.

Rep. Rick Berg, spoke in support of the bill.

Rep. Rick Berg: Basically the essence of the bill, is a safety valve to learn more about how to improve our WSI and how we take care of injured workers. In the last six months, was problems with injured workers that didn't feel their needs had been addressed appropriately. There might be an intimidation factor for the injured worker. There really is no where to turn when the office of independent review and other safety vessels we put in place are somewhat with in the same umbrella. What this bill would do is establish a workers compensation review committee.

Senator Klein: To have the hearing, the injured worker would petition to meet with the committee and at that point, he would release his information, but the group would have worker's safety officials there to help explain their position and the worker would get to explain his position, is that the feeling?

Senator Heitkamp: Are you nervous about overseeing executive branch of government?

Rep. Berg: Well, every statute has been done by the legislature. If there are things that need to be changed, we are the board of directors for WSI.

Senator Nething: The committee is going to operate by the rules of our interim committees which means they need to have a report ready by the vote of the legislative council, is that what is perceived?

Rep. Berg: Yes.

Senator Nething: The only problem I have is the committee only meets when there are claims to review. However, during the session of 2007, for example, the first quarter wouldn't be too bad,

but the second quarter of 2007, if there were claims, we are almost too late to bring in legislation.

Do we really need the committee to meet during the legislative session?

Rep. Berg: I think like all interim committees, we would not.

Senator Heitkamp: Does this mean that you are going to pay the committee too?

Rep. Berg: Yes.

Senator Fairfield: I am concerned about the confidentiality issues. On the one hand, you are saying that they have to sign over their record pertaining to the case in question, it will remain confidential, however, I don't know how we would maintain that in an interim committee setting.

Rep. Berg: That is a challenge that we will have to work with. Any committee of legislators can not be confidential. Again, what we try to do in the statute is to maintain as much confidentiality as we can and not violate the laws. Hopefully that will be fine tuned.

Dave Kemnitz, AFL-CIO, spoke with concerns, in support, but with concerns.

He stated that the AFL-CIO would like to have the bill amended to include their organization be present and able to have input at these hearings.

Rep. Dawn Charging stated her support for the bill.

There were no questions.

The hearing was closed.

On March 31, 2005, the committee met to take action on the bill.

Senator Klein moved a DO PASS. Senator Espegard seconded.

Roll Call Vote: 5 yes. 2 no. 0 absent.

Carrier: Senator Klein

Date: 3-30-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1523

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Adopt Amendments

Motion Made By

Heitkamp

Seconded By

Espegard

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)

4

No

3

Absent

0

Floor Assignment _____

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

Date: 3-30-05 (3-30-05)
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1523

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass As Amended

Motion Made By

Esp

Seconded By

Kreb

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)

5

No

2

Absent

0

Floor Assignment _____

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

Date: 5-30-7
Roll Call Vote #

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1800

Senate **Industry, Business, and Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]**Total**

(Yes)

No

Absent

Floor Assignment

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

Date: 3-31-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1523

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider Action by which Amendment was
Motion Made By Klein Seconded By Espegard made

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) 7 No 0

Absent 0

Floor Assignment _____

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

removes Amendment

Date: 3-31-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1523

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 Espesgard

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

Total (Yes) 5 No 2

Absent 0

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE (410)
April 5, 2005 8:21 a.m.

Module No: SR-62-7241
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1523, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1523 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1523

2005 House Bill No. 1523
Testimony before the House Industry, Business and Labor Committee
Presented by: Sandy Blunt, Executive Director & CEO
Workforce Safety and Insurance
March 8, 2005

Good morning Mr. Chairman and Members of the Committee:

My name is Sandy Blunt and I am the Executive Director & CEO of Workforce Safety and Insurance (WSI).

I am here to testify in support of HB 1523 which creates a Legislative Workers' Compensation Review Committee. The WSI Board of Directors supports this bill.

House Bill 1523 provides for an interim legislative committee to hear workers' compensation claims brought by injured workers for the purpose of determining whether changes should be made to the laws relating to workers' compensation. As outlined in the bill, the criteria for a hearing are:

- WSI must have issued a final determination and all legal remedies by the injured worker to resolve any disputes must be exhausted or their period for appeal has expired;
- A release of information must be signed allowing the committee and legislative council staff to fully review both the injured worker's and WSI's records;
- Any hearing must allow for the presentation of facts by both the injured worker and WSI;
- While the committee has no direct management/oversight of WSI or the claim in question, it may recommend legislation relating to workers' compensation; and,
- The Act is effective through July 31, 2007.

It is important to note that WSI initially accepts 93% of all claims filed and ultimately accepts 96%. As the attached table shows, disputed claims represent a small percentage of the total claims filed with the agency each year. While an average of 449 cases (2.28%) initially reached the Office of Independent Review for assistance, only 97 cases (0.49%) reached the administrative hearing level and only about 1/10th of 1% reached North Dakota's court system.

Dispute Data

Fiscal Year Ending	2000	2001	2002	2003	2004	5 Yr. AVG.
Claims Filed	20,045	20,320	19,950	18,753	19,184	19,650
Initially Accepted	93%	93%	93%	93%	93%	93%
Orders Issued	1,205	1,159	1,131	1,045	1,065	1,121
	6.01%	5.70%	5.67%	5.57%	5.55%	5.70%
OIR Requests	530	453	478	401	381	449
	2.64%	2.23%	2.40%	2.14%	1.99%	2.28%
OAH Requests	226	184	212	213	170	201
	1.13%	0.91%	1.06%	1.14%	0.89%	1.02%
OAH Hearings Held	117	89	74	98	104	97
	0.58%	0.44%	0.37%	0.52%	0.54%	0.49%
District Court Hearings	26	12	19	8	21	17
	0.13%	0.06%	0.10%	0.04%	0.11%	0.09%
Supreme Court Hearings	22	7	10	9	8	11
	0.11%	0.03%	0.05%	0.05%	0.04%	0.06%

In some cases, the denials represented in the chart were based on a clear cut set of facts and in others it may have been because of a required adherence to law. Nevertheless, whenever an individual's wage or medical benefits are affected by a denial from WSI, these numbers are of little comfort when searching to understand "why." When considering "why" a claim or a portion of a claim was denied, it is imperative to have all of the facts before rendering an opinion on the management of that claim. Unfortunately, some recent representations of WSI's work have "not" had all of the facts and many of the subsequent conclusions drawn were incorrect and false.

Under the current system, WSI is precluded from talking about specific cases without a signed release. Hearing one side of an issue without the ability to hear the other does not provide a good basis for legislative or policy reform. If passed, HB 1523 will provide all sides with an opportunity to fairly and openly present all the facts of the case for the legislative body to render a complete opinion before any laws are affected.

For the reasons presented, WSI requests a "Do Pass" vote on HB 1523. I would be happy to answer any questions at this time.

1. Notice of Decision

If you receive a Notice of Decision, and you believe this decision is wrong, you must write to WSI within 30 days of the date the Notice was mailed to you, asking to have the decision reconsidered. Explain why you think the decision is wrong, the relief being sought, and any additional information you want WSI to consider. If you do request reconsideration, one of two things will happen next:

- If, after reviewing the additional information you provided, WSI agrees with you that its decision was wrong, WSI will reverse the Notice of Decision and award benefits
- If WSI does not agree that its decision was wrong, WSI will issue an administrative order further explaining the reasons for the decision.

2. Administrative Order

The administrative order either awards benefits or denies benefits and provides greater detailed facts and legal analysis. If you receive an order from WSI and you believe the decision is wrong, you have two choices.

- You can contact the Office of Independent Review within 30 days from the date the order was mailed to you. In your letter, explain why you think the decision is wrong or explain what other assistance you would like.
- If you choose not to seek the assistance of the Office of Independent Review, you can write to WSI and request a hearing. If you do not request assistance from the Office of Independent Review or request a hearing within 30 days from the date the order was mailed to you, the order becomes final and may not be appealed.

3. Office of Independent Review (OIR)

OIR provides no-cost assistance to workers attempting to resolve disputed issues on a claim. Advocates help avoid costly and lengthy litigation. The program opens the lines of communication between parties and offers an independent review of the claim. Advocates act on behalf of the worker and communicate with WSI staff.

OIR provides the following services:

- General information regarding workers' compensation processes
- An explanation of the basis of WSI's decision
- A review of the claim to identify factors that may justify reconsideration of the claim
- Possible resolutions (with the worker's input) of the dispute
- A letter outlining OIR's findings

4. Administrative Hearing

A hearing request must be made to WSI in writing, and you must explain why you disagree with WSI's decision. WSI's attorney will request that the Office of Administrative Hearings appoint an Administrative Law Judge (ALJ) to conduct a hearing. The Administrative Law Judge is an attorney, independent of WSI, who will hear the facts of your claim and make a recommendation to WSI on whether WSI's decision is correct. You may attend the hearing and testify, and you may also bring witnesses or other evidence you have which supports your claim. After the hearing, the ALJ will issue a recommended decision at which time WSI will conduct a review to ensure that the facts and the law support the decision. WSI will then issue a final order within 60 days.

5. District Court Appeal

If you disagree with a final decision from WSI after an administrative hearing, you may appeal to a North Dakota District Court. In an appeal to the District Court, the District Court judge will review the documents contained in WSI's file and make a determination as to whether WSI's findings are supported by the evidence and by the law. Testimony is not taken, but the judge may ask for additional information on the law. The judge will make a decision and enter judgment.

6. Supreme Court Appeal

If you disagree with the opinion of the District Court judge, you may file a written appeal with the clerk of the District Court for a North Dakota Supreme Court appeal. The Supreme Court reviews WSI's decision, not the decision of the District Court judge, and will ensure that it is in accordance with the law and supported by the facts of the case. The Supreme Court does not hear new evidence or listen to testimony of witnesses.

Attorney Fees:

A worker is not required to seek assistance from OIR. However, attorney fees will only be paid by WSI, up to the caps provided in the North Dakota Administrative Code, if the worker first seeks OIR's assistance and subsequently prevails on further appeal of an order.

2005 Engrossed House Bill No. 1523
Testimony before the Senate Industry Business and Labor Committee
Presented by: Sandy Blunt, Executive Director & CEO
Workforce Safety and Insurance
March 29, 2005

Good morning Mr. Chairman and Members of the Committee:

My name is Sandy Blunt and I am the Executive Director & CEO of Workforce Safety and Insurance (WSI).

I am here to testify in support of Engrossed HB 1523 (HB 1523) which creates a Legislative Workers' Compensation Review Committee. The WSI Board of Directors supports this bill.

HB 1523 provides for an interim legislative committee to hear workers' compensation claims brought by injured workers for the purpose of determining whether changes should be made to the laws relating to workers' compensation. As outlined in the bill, the criteria for a hearing are:

- WSI must have issued a final determination and all legal remedies by the injured worker to resolve any disputes must be exhausted or their period for appeal has expired;
- A release of information must be signed allowing the committee and legislative council staff to fully review both the injured worker's and WSI's records;
- Any hearing must allow for the presentation of facts by both the injured worker and WSI;
- While the committee has no direct management/oversight of WSI or the claim in question, it may recommend legislation relating to workers' compensation; and,
- The Act is effective through July 31, 2007.

It is important to note that WSI initially accepts 93% of all claims filed and ultimately accepts 96%. As the attached table shows, disputed claims represent a small percentage of the total claims filed with the agency each year. While an average of 449 cases (2.28%) initially reached the Office of Independent Review for assistance, only 97 cases (0.49%) reached the administrative hearing level and only about 1/10th of 1% reached North Dakota's court system.

Dispute Data

Fiscal Year Ending	2000	2001	2002	2003	2004	5 Yr. AVG.
Claims Filed	20,045	20,320	19,950	18,753	19,184	19,650
Initially Accepted	93%	93%	93%	93%	93%	93%
Orders Issued	1,205	1,159	1,131	1,045	1,065	1,121
	6.01%	5.70%	5.67%	5.57%	5.55%	5.70%
OIR Requests	530	453	478	401	381	449
	2.64%	2.23%	2.40%	2.14%	1.99%	2.28%
OAH Requests	226	184	212	213	170	201
	1.13%	0.91%	1.06%	1.14%	0.89%	1.02%
OAH Hearings Held	117	89	74	98	104	97
	0.58%	0.44%	0.37%	0.52%	0.54%	0.49%
District Court Hearings	26	12	19	8	21	17
	0.13%	0.06%	0.10%	0.04%	0.11%	0.09%
Supreme Court Hearings	22	7	10	9	8	11
	0.11%	0.03%	0.05%	0.05%	0.04%	0.06%

In some cases, the denials represented in the chart were based on a clear cut set of facts and in others it may have been because of a required adherence to law. Nevertheless, whenever an individual's wage or medical benefits are affected by a denial from WSI, these numbers are of little comfort when searching to understand "why." When considering "why" a claim or a portion of a claim was denied, it is imperative to have all of the facts before rendering an opinion on the management of that claim. Unfortunately, some recent representations of WSI's work have "not" had all of the facts and many of the subsequent conclusions drawn were incorrect and false.

Under the current system, WSI is precluded from talking about specific cases without a signed release. Hearing one side of an issue without the ability to hear the other does not provide a good basis for legislative or policy reform. If passed, Engrossed HB 1523 will provide all sides with an opportunity to fairly and openly present all the facts of the case for the legislative body to render a complete opinion before any laws are affected.

For the reasons presented, WSI requests a "Do Pass" vote on Engrossed HB 1523. I would be happy to answer any questions at this time.

**Testimony of David Straley
Greater North Dakota Chamber of Commerce
Presented to the Senate IBL Committee
March 29, 2005**



HB 1523

Mr. Chairman and members of the House Industry, Business & Labor Committee, my name is David Straley. I am here today representing a coalition of 18 chambers of commerce that speak for over 7,400 member businesses in North Dakota. I am here today to urge you to **support** House Bill 1523.

Over the past few months, the business community has testified in support of several bills that have helped injured workers. We are proud of the relationship we have been building with employee representatives and we are committed to continuing this relationship. As we have traveled across the state of North Dakota many times and talked to business leaders, there has never once been a comment or conversation that led to decreasing the care or benefits given to injured workers. We are happy to have helped pass legislation this session that improves quality of life for injured workers.

This bill will open another door to injured workers with a direct link to the legislature. As I had stated earlier, the business community wants for injured workers to be taken care of. HB 1523 will allow for an independent group to review the claims of Workforce Safety & Insurance. If in fact, there are changes needed in the Century Code, this bill also allows for suggestions to be made to the next legislative assembly. The bipartisan committee from both the House of Representatives and Senate shall ensure representation from both sides of the isle, no matter which party is the majority party.

Thank you, Chairman Mutch and members of the Senate IBL Committee. We urge a **DO PASS** for HB 1523. Thank you and I would be happy to answer any questions at this time.

The following chambers are members of a coalition that support our policy statements:

Beulah
Bismarck-Mandan
Bottineau
Cando
Crosby
Devils Lake
Dickinson
Fargo
Grand Forks
Greater North Dakota Chamber of Commerce
Hettinger
Jamestown
Langdon
Minot
Wahpeton
Watford City
West Fargo
Williston

Total Businesses Represented = 7429