

**DIETZ & LITTLE**

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Interim Industry, Business and Labor Committee  
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Mr. Chairman and Members of the Committee:

My name is Steve Little. I'm a practicing attorney here in Bismarck. I began my legal career as a staff attorney for the Legislative Council. Then I spent a few years working as an Assistant Attorney General for Bob Wefald. For the past 23 years, I've been in private practice, primarily representing injured workers before what's now called Workforce Safety & Insurance. I'm also responsible for drafting the proposed initiated measure which, when passed, will restore accountability and fairness by returning control of WSI to the Governor, placing WSI employees under the State's Central Personnel system, forcing WSI to use independent Administrative Law Judges hired by the Office of Administrative Hearings, and making those ALJs' decisions final.

In my experience, most injured workers learned the value of honest work long before they entered the workforce. I've never seen anyone get hurt standing at the water cooler or the coffee maker. Lazy people don't get hurt. When workers do get hurt, all too often the injury can't really be "fixed" and it becomes chronic. Their ability to make a living and support their families is jeopardized. They can no longer meet their own standards, on the job and off. Their chronic pain inevitably leads to depression. I've had clients who have lost their savings, their possessions, their homes and their families. I had one client who ended up living in a dumpster. North Dakota's workers are rightly praised for their work ethic. They deserve better than to lose everything simply because they get hurt on the job.

During the past 23 years, I've seen the workers compensation system in North Dakota devolve from mediocre to atrocious. I've seen a system that was flawed but fair adopt a bunker mentality where claims adjustors are afraid to give their last names to the injured workers they serve while working behind bulletproof glass and tighter security than the state

penitentiary. Today, WSI farms out both its litigation and its adjudication, something that it did in-house with a handful of people 20 years ago. WSI is run by a business-dominated board that is as inaccessible as it is unaccountable. Disputed medical issues are farmed out to out-of-state opinion mills, not independent, treating doctors in North Dakota. Permanent impairments less than 16% are ignored. Disabled workers lose total disability benefits after 2 years and partial benefits after 5 years regardless of whether they continue to be disabled. Disability benefits are further reduced when injured workers turn 65 regardless of the effect of their disability on their pensions or Social Security Retirement benefits. Vocational rehabilitation services are intended only to pry disabled workers off benefits. Finally, legal fees capped at 20% prevent injured workers from challenging denials of needed medical treatment and testing.

Before addressing any questions you may have, I have a few of my own: How many disabled workers who have gone through WSI's vocational rehabilitation process in the past 10 years have ever found work in the fields in which WSI said they were employable and earned the wages WSI predicted? After all, if the goal of WSI's rehabilitation program is to return disabled workers to substantial, gainful employment, shouldn't we see if they're reaching their goal? How many disabled workers aren't able to return to substantial, gainful employment after 2 years of disability? How often does WSI even try to get an in-state second opinion before paying thousands of dollars to a Minnesota opinion mill? How many times has WSI overridden the recommended decisions of Administrative Law Judges and how many of WSI's final orders were prepared by the same employees who prepared the initial decisions under review? Why should employers select the doctors injured workers are allowed to see in order to qualify for workers compensation benefits? Why should WSI consider such factors as age, genetics and personal habits in determining compensability? In other words, why have we converted a no-fault system into a worker-fault system?

Mr. Chairman and Members of the Committee, if you have any questions, I'll try to answer them.

Stephen D. Little  
Attorney at Law