

Workforce Safety and Insurance: Allocation of Fund Surplus

Background

North Dakota Century Code §65-04-02 states:

The organization shall maintain adequate financial reserves to ensure the solvency of the fund and the payment of future benefit obligations, based upon actuarially sound principles. The discount rate used in evaluating the financial reserves may not exceed six percent. The level of financial reserves plus surplus must be at least one hundred twenty percent but may not exceed one hundred forty percent of the actuarially established discounted reserve. The independent annual financial audit of the organization must report the organization's financial reserves.

In 2005, the Legislative Assembly added that portion of the statute mandating the 120-140% range. N.D.C.C. § 65-04-02 does not define "surplus," nor is surplus defined elsewhere in North Dakota state law. There is little other guiding authority in Generally Accepted Accounting Principles (GAAP)

One mechanism by which WSI draws down its available fund surplus is through an award to dividends to North Dakota employers.

Following available guidance in GAAP, industry practice, and the mandates of Title 65, WSI identified the following net assets as *unavailable unrestricted net assets* and excluded these dollars from the net assets available for a dividend calculation¹

Safety Education & Grants	23,500,000
Revolving School Loan Fund	14,985,649
Capital Assets	10,800,000
ITTP Update ²	10,000,000
Unrealized Gains	65,000,000

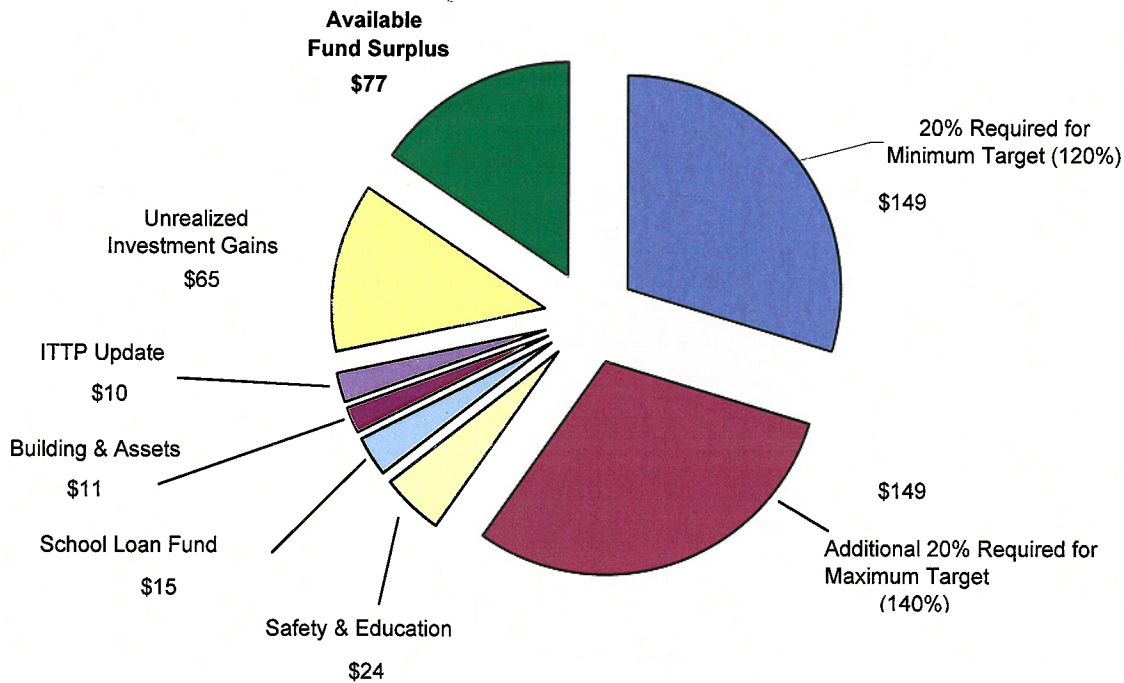
These amounts are based on a "Projected" Fiscal Year 2008 end and are not actual.

¹ An award of a dividend to North Dakota employers is the primary mechanism by which WSI's Board of Directors draws down the surplus balance to bring it into compliance with N.D.C.C. §65-04-02.

² ITTP is WSI's Information Technology Transformation Project, a conversion of our current claims, medical and policy processing software to a new, integrated product.

Projected Fund Balance June 2008

Chart numbers in millions



Unpaid Loss & LAE, Discounted 5%	Actual Jun 2007	Cumulative Funding Ratio	"Projected" Jun 2008	Cumulative Funding Ratio
	730,900,000	100%	745,000,000	100%
Fund Balance	466,835,352	63.9%	499,335,352	67.0%
Allocated / Restricted				
120% Target	146,180,000	20.0%	149,000,000	20.0%
140% Target	146,180,000	20.0%	149,000,000	20.0%
Safety Education, Grants & Incentives	31,053,261	4.2%	23,500,000	3.2%
Revolving School Loan Fund	14,985,649	2.1%	14,985,649	2.0%
Capital Assets Including Building	11,944,008	1.6%	10,800,000	1.4%
ITTP Update			10,000,000	1.3%
Not Immediately Available				
Unrealized Investment Gains	73,343,549	10.0%	65,000,000	8.7%
Available Fund Surplus	43,148,885	5.9%	77,049,703	10.3%

Fund balance is comprised of restricted, unrestricted, spendable and unspendable dollars. Unrealized gains, capital assets, and funds allocated for special purposes are not included in the "Available Fund Surplus" total.

Note: ITTP Update requires approximately \$10 million dollars in FY 09 and FY 10. The original agreement receiving legislative approval required these funds be taken from surplus so premium rates would not be affected.

June 2008 totals are projected. Actual totals will vary.

By way of explanation, the Governmental Accounting Standards Board (GASB), Statement 34, indicates that for a Proprietary Enterprise Fund such as WSI, "the difference between a government's assets and its liabilities is its net assets. Net assets should be displayed in three components – invested in capital assets, net of related debt; restricted (distinguishing between major categories of restrictions); and unrestricted." GASB Statement 34, Paragraph 32

"Capital assets, net of related debt" includes land, improvement to lands, building and equipment. "Restricted assets" refers to those assets which are unavailable due to an externally imposed limitation by a creditor or grantor. A restricted asset may also be a limitation imposed by enabling legislation which requires an asset to be used only for a specific purpose.³ "Unrestricted Assets" consist of net assets that do not meet the definition of restricted or invested in capital assets, net of related debt.

It is important to note that GAAP provides only limited guidance on the categorization of assets for a proprietary enterprise fund. Further, the disparity of practices throughout the accounting community remains an ongoing topic of discussion and analysis. See April 2008 issue of "Government Finance Review," GASB Exposure Draft on Fund Balance attached as exhibit #1.

In addition, in its Comprehensive Annual Financial Report prepared by the Office of Management and Budget, the state of North Dakota characterizes WSI as a proprietary enterprise fund along with other entities such as the University System and the Bank of North Dakota. In its publication for fiscal year ending June 30, 2007, OMB classified \$11,161,122, representing WSI's building and other capital assets as "Invested in Capital Assets, Net of Related Debt" and consequently restricted. Exhibit 2 illustrates \$455,674,239 representing all other net assets as "unrestricted" net assets for total net assets of \$466,835,352.

Issue:

In a memo to the Attorney General's office seeking an opinion, the State Auditor takes issue with WSI's allocation and categorization of its assets. They indicate they are "aware of no law, rule or regulation which would allow such offsets to be applicable and under generally accepted accounting principles, such offsets would not be permissible." Auditor's Office request for AG opinion dated June 4, 2008. The State Auditor points to no specific authority by which it draws its conclusion.

³ At first blush, a number of WSI's legislatively driven line items would seem to fit this category. According to GASB, however, only those resources that permit a governmental agency to "assess, levy, charge or otherwise mandate payment" fit into this category. GASB Statement 34, Paragraph 34

WSI asserts that an agency's interpretation of its own statute is entitled to deference. See North Dakota Workers Comp. Bureau v. Saari, 1999 ND 144, 598 N.W.2d 174; Turnbow v. Job Service North Dakota, 479 N.W.2d 827 (N.D. 1988). The North Dakota Supreme Court has said, "ordinarily, a determination of an administrative agency is presumed to be correct." Barnes County v. Garrison Diversion Conservancy Dist., 312 N.W.2d 20, 25 (N.D. 1981). Where the subject of an agency decision is a technical one, the expertise of the agency is entitled to respect. Triangle Oilfield Services, Inc. v. Hagen, 373 N.W.2d 413, 415 (N.D. 1985). See also True v. Heitkamp, 470 N.W.2d 582, 587 (N.D. 1991) (Administrative deference is a particularly important consideration when an agency interprets and implements tax laws that are complex and technical in nature.) "There is at least a strong presumption that the legislature knew and approved the contemporaneous and practical construction placed upon the [statute] by the officers charged with its administration." Payne v. Bd. of Trustees of the Teachers' Ins. & Ret. Fund, 35 N.W.2d 553, 557-58 (N.D. 1948).

Safety, Education, Grants and Incentives

During the 2005 legislative session, WSI sought the legislature's authority for a continuing appropriation to fund its safety programs. In the legislative history of HB 1125, WSI testified that

"section 1 provides WSI with continuing appropriation authority to fund safety education, matching grants, and incentive programs in the event there is a reserve surplus. The first charge of WSI is to protect North Dakota's workforce through effective safety programs. This amendment allows WSI to *direct surplus* resources to assure we are doing all we can to protect North Dakota's workforce through aggressive safety efforts." Testimony of Anne Jorgenson Green, 2005 Engrossed House Bill 1125, March 1, 2005. See exhibit #3.

WSI further relies upon its Board of Director's Resolution in July of 2005 to categorize this asset as an unavailable unrestricted net asset. In its resolution, the Board earmarked \$35 million dollars to fulfill the mandate of N.D.C.C. § 65-04-03 which permits WSI to develop programs to enhance the safety of North Dakota workers through safety programs, education and grants. See exhibit #4.

Revolving School Loan Fund

During the 2005 legislative session, § 65-05.1-08 became law and provided a continuing appropriation to finance a student loan fund to assist injured workers in attaining educational goals. Similar to WSI's safety programs, fifteen million dollars were set aside by WSI Board Resolution to realize that program pursuant to the statutory mandate. See exhibit #5.

Capital Assets

Next, WSI turns to GASB for guidance which quantifies an asset invested in capital as a restricted asset per GASB Statement 34, Paragraph 19. "The term *capital assets* includes land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period." Recall, capital assets are identified as one of the three categories of assets under a proprietary enterprise fund along with restricted and unrestricted assets. The Office of Management and Budget in its budget, reports this asset as restricted. See exhibit #6.

ITTP Update

WSI also quantified its ITTP computer project dollars as an unavailable unrestricted asset. During the 2007 legislative session, WSI's testimony reflects its intent to set aside ITTP funds from surplus. Common sense dictates that WSI would not embark on a fourteen million dollar computer conversion project only to deplete those committed funds by including them in a dividend calculation. See exhibit #7.

Unrealized Gains

Lastly, the legislative history from House Bill 1531 during the 2005 session provides support that the intent of the legislature was to exclude unrealized gains from available unrestricted net assets.

In its written testimony, WSI reported that "when available net assets are greater than the surplus target, WSI will be in a reserve surplus position." Testimony and materials of Sandy Blunt, 2005 House Bill No. 1531, April 4, 2005. The materials accompanying the testimony included a chart outlining how WSI proposed that surplus be calculated. That chart shows unrealized investment gains as an *excluded* item in the calculation in the reserve surplus figure. See exhibit #8.

Furthermore, research of industry practice confirms that numerous jurisdictions have handled this issue of what constitutes "surplus" consistently with the ND legislature's approach. In Washington, "earned surplus means that part of its available surplus funds which is derived from any realized net profits on its business, and does not include unrealized capital gains or reevaluation of assets." RCW 48.08.02.

N.Y. Ins. Law § 4105 (McKinney 2000) sets forth the rules governing the distribution of dividends by domestic stock property/casualty insurance companies. The law provides that "(a)no domestic stock property/casualty insurance company shall declare or distribute any dividend to shareholders

except out of earned surplus." N.Y. Ins. Law § 4105(a). "Earned Surplusdoes not include unrealized appreciation of assets." id.

North Dakota, too, speaks to the payment of dividends for a company subject to Title 26 (the law governing insurance). N.D.C.C. § 26.1-10-05.1 permits any company to declare and pay a dividend but that company "...may not include surplus arising from unrealized appreciation in value or revaluation of assets, or from unrealized profits upon investments." N.D.C.C. § 26.1-10-05.1(1)(b).

It is against this backdrop of authority and industry practice that WSI, interpreting §65-02-04, concluded the five categories above are unavailable unrestricted net assets.

Recent Financial Audit and WSI Board Action

In WSI's 2007 financial audit, Brady Martz and Associates found that WSI was not in compliance with the 120-140% range of reserves plus surplus. WSI agrees. In fact, WSI has not been in compliance since the statute was enacted. See Exhibit #8. WSI's response to this audit finding, however, noted the many factors considered in reaching the statutory mandated range as well as the concerted effort made to reach that range:

"WSI monitors the fund surplus on a consistent basis. The WSI Board of Directors has declared a 40% dividend credit to qualified policyholders the past two years and has declared a 50% dividend credit to qualified policyholders in the current year. The WSI's Board of Directors dividend declaration is a direct attempt to align the fund balance to comply with legislative directives.

WSI considers many factors while monitoring the fund's surplus balance. WSI must maintain ample reserves to pay future losses. Legislative changes and Supreme Court rulings have the ability to greatly affect WSI liabilities. While the past year has provided ample investment revenue, future returns are uncertain. Economic conditions within the state are not static. WSI is investing more funds into safety training and education. WSI will continue working to balance the fund surplus to legislatively mandated levels while safeguarding the purpose of the agency."

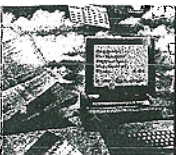
As indicated, the issue of complying with the statutorily mandated range has been an ongoing topic for WSI since the mandate's inception in 2005. Significantly, on June 19, 2008, the WSI Board of Directors met. On their agenda was the issue of compliance with N.D.C.C. §65-04-02 and the potential declaration of a dividend. While the staff presented models for review reflecting proposed dividends in the amount of 50%, 60% and 70%, the Board made the decision to declare a dividend in the amount of 62%, an amount which brought WSI into compliance with its statute, based on the Fiscal Year End 2008

Projection. It is likely that § 65-04-02 will be the topic of legislative action in the 2009 session.⁴ Currently, it is being reviewed by at least one interim legislative committee.

Conclusion

Absent more specific and clear authority, WSI has sought guidance from its authorities on accounting standards, other jurisdictions and its own statutory mandates. WSI has seen no authority suggesting, as the state auditor does, that our analysis is erroneous. Indeed, the authority WSI relies upon supports its accounting methods and allocations are sound under the circumstances.

⁴ "We're probably going to take this up, because it does need to be re-examined." Rep Rick Berg, R-Fargo, Fargo Forum, June 17, 2008



GASB Exposure Draft on Fund Balance

By Stephen J. Gauthier

The exposure draft the GASB released in February proposes to establish clear guidelines for classifying the various components of fund balance.

At the end of February, the Governmental Accounting Standards Board (GASB) released an exposure draft (ED) that proposes to substantially change how *fund balance* is categorized. It also proposes guidance that would modify how some of the governmental fund types are used.

WHERE'S THE FIRE?

The term *fund balance* has long been used in state and local government accounting to describe the net difference between the assets and liabilities reported in governmental funds. That amount, in turn, has traditionally been divided into *reserved* and *unreserved* components, with the option of further distinguishing *designated* unreserved fund balance from *undesignated* unreserved fund balance.

Few would dispute that *fund balance* is the most-discussed single item that appears in a typical state or local government's financial statements. Indeed, the amount of *fund balance* is frequently regulated by law, regulation, or policy, and is subject to close scrutiny by rating agencies and others interested in a government's finances. So why the need for change?

First, the terms used to describe the various components of fund balance are not completely self-explanatory and have often been misunderstood by oth-

erwise knowledgeable financial statement users. Second, research amply demonstrates that there is considerable (and unjustified) diversity in how those categories are applied in practice, which significantly diminishes comparability among governments.

The ED proposes to remedy these two problems by establishing clear guidelines for classifying the various components of fund balance and then describing those components in such a way as to be immediately understandable to a typical user of state or local government financial statements.

WHAT DO PEOPLE REALLY NEED TO KNOW?

The ED proposes to categorize *fund balance* to provide two essential pieces of information (see Exhibit 1).

Can the resources ever actually be spent? A government cannot actually "spend" inventory or prepaid rent. Likewise, the corpus of an endowment must remain intact and can thus never be spent. The ED proposes to distinguish such *non-spendable* resources reflected in fund balance from the portion of fund balance that reflects resources which are, in fact, spendable, at least in the future, if not now.

Are there resources that can be spent only for specified purposes? Typically, a significant portion of a government's spendable resources can be



Exhibit 1: Fund Balance Classifications: Current and Proposed

Current Classifications of Fund Balance

Fund Balance	Reserved	Not available for appropriation	
	Unreserved	Designated	Available for appropriation but intended for a specific use
		Undesignated	Available for appropriation

Proposed Classifications of Fund Balance

Fund Balance	Non-spendable	Not available for spending, either now or in the future, because of the form of the asset (e.g., inventories) or a permanent legal restriction (e.g., principal of an endowment)	
	Spendable	Restricted	Constraints on spending that are legally enforceable by outside parties
		Limited	Constraints on spending that the government imposes upon itself by high-level formal action prior to the close of the period
		Assigned	Resources intended for spending for a purpose set by the governing body itself or by some person or body delegated to exercise such authority in accordance with policy established by the board
		Unassigned	Residual (general fund only)

spent only for specified purposes. The ED proposes to segregate this amount into three categories designed to reflect both the source and force of the constraint on spending.

■ **Restricted spendable fund balance.** This category would be used for the portion of *spendable fund balance* that reflects constraints on spending that are *legally enforceable* by *outside parties* (e.g., creditors, grantors, contributors, law, or regulations of other governments).

■ **Limited spendable fund balance.** The ED proposes this category for the portion of *spendable fund balance* reflecting constraints that a government has imposed upon itself by formal action taken by its highest level of decision-making authority prior to the end of the reporting period.¹ The key difference between *limited fund balance* and *restricted fund balance* is that the latter is *legally enforceable* by outside parties, while the former is not.

■ **Assigned spendable fund balance.** The ED proposes this term to describe the portion of *spendable fund balance* that reflects a government's intention to use resources for a specific purpose. Such an assignment would have to be made either by the governing body itself or by a subordinate high-level body or official delegated to make such assignments in accordance with policy established by the governing body.² That is, assigned *spendable fund balance* would reflect the *governing board's intentions* rather than those of management.

There would be no reason, of course, to report resources in a fund other than the general fund unless those resources were either *restricted*, *limited*, or *assigned*. Therefore, these are the only three categories of *spendable fund balance* that would be reported for governmental funds other than the general fund. Conversely, it is to be expected that the general fund will have additional resources that are not subject to any of these constraints. The ED proposes to describe this portion of *fund balance* in the general fund as *unassigned spendable fund balance*.

Many governments systematically set aside resources that can be spent only if certain specific circumstances occur (e.g., "rainy day funds," "stabilization funds"). The ED proposes that such amounts be treated as either *restricted spendable fund balance* or *limited spendable fund balance*, depending upon the source and force of the constraint, and presuming that the specific circumstances in which spending would be permitted "would not be expected to occur routinely." Otherwise, such amounts would be reported simply as *unassigned spendable fund balance* in the general fund.

In current practice, a portion of *fund balance* is typically *reserved* or *designated* for outstanding encumbrances (e.g., outstanding purchase orders) to alert users that such amounts are not available for budgeting. The ED, however, as just explained, proposes to focus users' attention on constraints on the *purpose* for which resources can be spent, rather than

on their budgetary availability. Accordingly, the ED proposes that *encumbrances* no longer be reflected as a component of *fund balance*, but instead be included as part of the required note disclosure for commitments, if significant.

How "special" do special revenue funds need to be? The ED proposes that henceforth, *special revenue funds* be used only for specific *revenue sources* that are either *restricted* or *limited* to spending for a specific purpose. Thus, surplus resources earmarked by the governing body for a specific purpose (i.e., not a *revenue source*) could no longer be accounted for in *special revenue funds*. All the same, the ED would allow governments to transfer earmarked resources to properly constituted *special revenue funds*, provided the original resources that served as the basis for establishing the fund remain *significant*.

When is a capital project a capital project? There are two related notions inherent in the term *capital projects fund*. It is not enough for spending to involve capital items (i.e., *capital projects fund*); those items must also be part of a *project*. In practice, it is not uncommon for governments to use capital projects funds to account for the acquisition of capitalizable items that are clearly not part of a project (e.g., buses, fire trucks, computer workstation equipment). The ED would make it clear that the use of the capital projects fund type is only appropriate for "acquisition or construction of

capital assets that clearly comprise *facilities*" (e.g., buildings, building improvements, infrastructure assets), including ancillary items integral to such projects.


WHERE DO WE GO FROM HERE?

The GASB proposes that the guidance offered in the ED, if ultimately approved, take effect starting with fiscal years ending June 30, 2011. As usual, earlier implementation would be encouraged. The ED is available, free of charge, on the GASB's Web site at www.gasb.org. A public hearing on the topic will be held on July 14, 2008, in Kansas City, Missouri, in connection with the annual conference of the National Association of Counties. ■


Notes

1. "The Board considered whether this Statement should specify which formal actions of a government's highest level of decision-making authority were required to establish limitations but determined that it would not be practical to do so because of differences in the powers accorded to governments." (Governmental Accounting Standards Board, *Fund Balance Reporting and Governmental Fund Type Definitions*, exposure draft, February 29, 2008, paragraph 59.)
2. "Essentially, the Board's intention is that the assigned category include amounts that have been earmarked or set aside for a specific purpose by an authorized government body or official but that do not satisfy the criteria to be classified as restricted or limited. *How* intent should be expressed and communicated has not been specifically prescribed..." (Ibid., paragraph 65)

STEPHEN J. GAUTHIER is director of the Government Finance Officers Association Technical Services Center in Chicago, Illinois.


Government Finance Officers Association


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STATE OF NORTH DAKOTA

Statement of Net Assets Proprietary Funds June 30, 2007

	Business-Type Activities - Enterprise Funds					Governmental Activities
	Bank of North Dakota	Housing Finance	University System	Workforce Safety and Insurance	Other Enterprise Funds	Internal Service Funds
LIABILITIES						
Current Liabilities:						
Accounts Payable		700,000	20,998,786	2,222,249	6,729,352	30,650,387
Accrued Payroll		-	21,319,857	-	707,813	22,027,670
Securities Lending Collateral		-	-	252,579,982	4,063,812	256,643,794
Interest Payable		16,892,000	91,579	-	485,785	17,469,364
Intergovernmental Payable		332,000	175,227	-	2,331,163	2,838,390
Due to Other Funds		2,111,000	3,981,049	169,718	27,559,556	33,821,323
Due to Component Units		-	185,492	-	-	185,492
Contracts Payable		-	3,014,779	-	-	3,014,779
Other Deposits		-	5,318,917	-	-	5,318,917
Amounts Held in Custody for Others		8,304,000	-	-	4,214,307	12,518,307
Claims/Judgments Payable		-	-	93,000,000	638,765	93,638,765
Dividends Payable		-	-	56,909,336	-	56,909,336
Compensated Absences Payable		123,000	1,153,795	707,000	88,527	2,072,322
Notes Payable		-	1,029,106	-	-	1,029,106
Capital Leases Payable		-	5,160,749	-	27,162	5,187,911
Bonds Payable		16,395,000	7,567,850	-	500,000	24,462,850
Deferred Revenue		-	11,087,128	63,023,443	3,398,290	77,508,861
Other Current Liabilities		-	-	-	10,458	10,458
Total Current Liabilities		44,857,000	81,084,314	468,611,728	50,754,990	645,308,032
Noncurrent Liabilities:						
Intergovernmental Payable		1,313,000	1,613,403	-	3,090,920	6,017,323
Claims/Judgments Payable		-	-	637,900,000	265,806	638,165,806
Dividends Payable		-	-	35,698,914	-	35,698,914
Compensated Absences Payable		47,000	21,087,846	124,450	925,081	22,184,377
Notes Payable		-	5,581,625	-	-	5,581,625
Capital Leases Payable		-	40,920,534	-	22,834	40,943,368
Bonds Payable		781,690,000	183,057,356	-	84,334,769	1,049,082,125
Other Noncurrent Liabilities		-	1,554,907	-	4,049,554	5,604,461
Total Noncurrent Liabilities		783,050,000	253,815,671	673,723,364	92,688,964	1,803,277,999
Bank Related Liabilities:						
Interest Payable		1,136,000	-	-	-	1,136,000
Due to Other Funds		35,203,000	-	-	-	35,203,000
Due to Component Units		5,507,000	-	-	-	5,507,000
Federal Funds Purchased		222,595,000	-	-	-	222,595,000
Reverse Repurchase Agreements		26,550,000	-	-	-	26,550,000
Deposits Held for Other Funds		1,267,255,028	-	-	-	1,267,255,028
Other Deposits		344,373,972	-	-	-	344,373,972
Other Liabilities		3,322,000	-	-	-	3,322,000
Long Term Liabilities:						
Due within one year		9,651,000	-	-	-	9,651,000
Due in more than one year		247,558,000	-	-	-	247,558,000
Total Bank Related Liabilities		2,163,151,000	-	-	-	2,163,151,000
Total Liabilities		2,163,151,000	827,907,000	334,899,985	1,142,335,092	4,611,737,031
NET ASSETS						
Invested in Capital Assets, Net of Related Debt		7,119,000	-	462,578,478	11,161,122	46,543,972
Restricted for:						
Capital Projects		-	-	338,275	-	338,275
Debt Service		-	76,036,000	11,757,660	27,695,747	115,489,407
Loan Purposes		-	-	45,264,320	777,559	46,041,879
Pledged Assets		138,519,000	4,045,000	-	-	142,564,000
Unemployment Compensation		-	-	-	130,901,831	130,901,831
University System-Nonexpendable		-	-	13,190,167	-	13,190,167
University System-Expendable		-	-	28,762,868	-	28,762,868
Other		-	-	46,608	884,477	931,085
Unrestricted		17,904,000	8,707,000	140,513,572	455,674,230	117,686,756
Total Net Assets		\$ 163,542,000	\$ 88,788,000	\$ 702,451,948	\$ 466,835,352	\$ 324,490,342
						\$ 1,746,107,642

Reconciliation of the Proprietary Funds Statement of Net Assets
to the Statement of Net Assets
June 30, 2007

Total Net Assets - Enterprise Funds

Amounts reported for business-type activities in the statement of net assets are different because:

Prior year net assets restatement and reduction of current year expenses
based on the allocation of internal service fund's net income

Net Assets of Business-Type Activities

\$ 1,746,107,642

5,487,280

\$ 1,751,594,922

The Accompanying Notes are an Integral Part of the Financial Statements

EXHIBIT

2

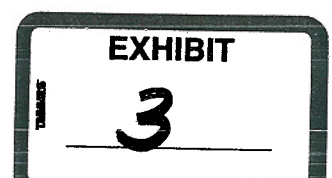
2005 Engrossed House Bill No. 1125
Testimony before the Senate Industry, Business, and Labor Committee
Presented by: Anne Jorgenson Green, Staff Counsel
Workforce Safety and Insurance
March 1, 2005

Mr. Chairman, Members of the Committee:

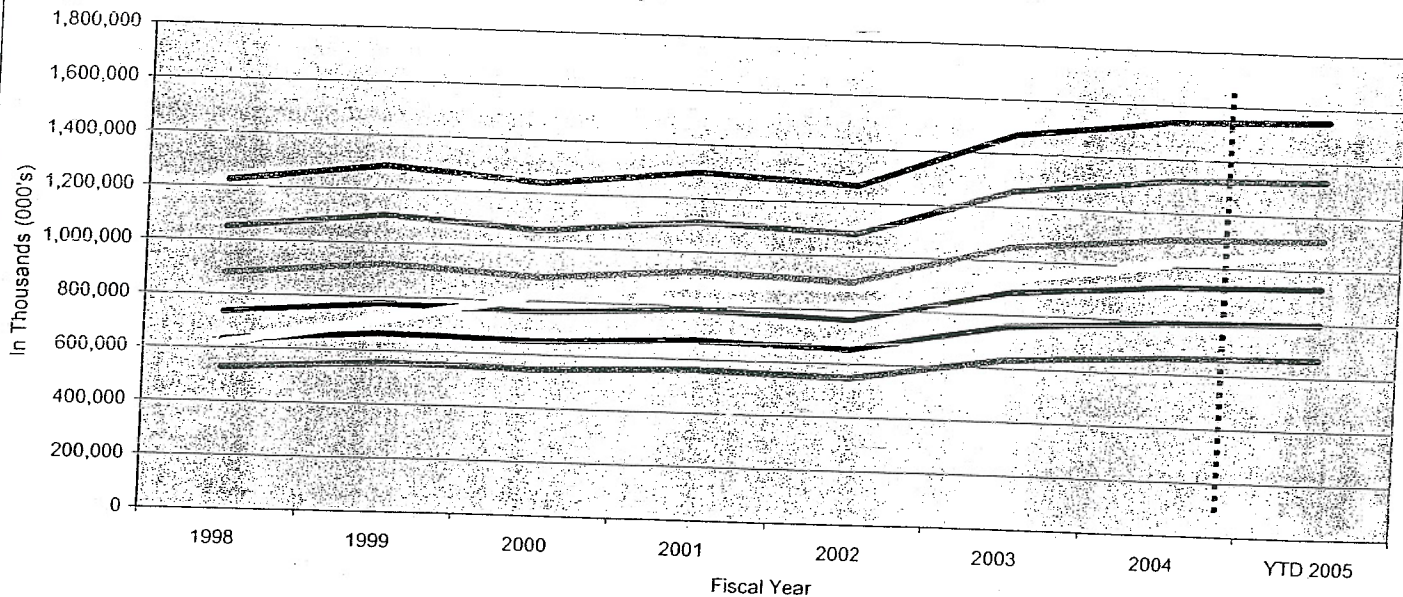
Good Morning. My name is Anne Jorgenson Green and I am staff counsel for Workforce Safety and Insurance (WSI). I am here today to testify in support of Engrossed House Bill 1125 (HB 1125). This bill proposes changes to several statutes regarding policyholder services. The WSI Board of Directors supports this bill.

Section 1. The workforce of North Dakota is the driving force behind the state's business success and the strong communities we enjoy. Protecting our workforce and assuring their safety while they are at work should be a top priority and commitment because the best claim is the one that never happened. Section 1 provides WSI with continuing appropriation authority to fund safety education, matching grants, and incentive programs in the event there is a reserve surplus. The first charge of WSI is to protect North Dakota's workforce through effective safety programs. This amendment allows WSI to direct surplus resources in order to assure we are doing all we can to protect North Dakota's workforce through aggressive safety efforts.

Section 2. This proposed change brings any rate adjustment in the minimum premium into WSI's rate-making process. At the conclusion of the public rate hearing process, WSI's Board of Directors is charged with approving all final rate recommendations with the exception of minimum premium. Currently, minimum premium rates are established by administrative rule. This proposed change permits the Board to approve minimum premium as they do all other rates.



Workforce Safety & Insurance
Financial Reserves and Surplus (5% Discount on Liabilities)
Current Position and Last 7 Years



CALCULATION (in 000's)								
	1998	1999	2000	2001	2002	2003	2004	YTD 2005
Unpaid loss and LAE, discounted at 5%	525,700	553,700	543,000	561,000	545,700	630,100	659,200	666,200
Total fund surplus	142,319	206,274	332,942	332,632	341,073	337,396	403,652	459,107
Less: Unrealized investment gains	(49,085)	(47,728)	(55,548)	(12,865)	0	(32,884)	(52,191)	(58,532)
Total Financial Reserves and Surplus	618,934	712,246	820,394	880,767	886,773	934,612	1,010,661	1,066,775
Total Financial Reserves and Surplus	618,934	712,246	820,394	880,767	886,773	934,612	1,010,661	1,066,775
Unpaid loss and LAE, discounted at 5%	525,700	553,700	543,000	561,000	545,700	630,100	659,200	666,200
Financial Ratio	117.7%	128.6%	151.1%	157.0%	162.5%	148.3%	153.3%	160.1%
Low End of Ratio (120%)	630,840	664,440	651,600	673,200	654,840	756,120	791,040	799,440
High End of Ratio (140%)	735,980	775,180	760,200	785,400	763,980	882,140	922,880	932,680

RESOLUTION OF THE WORKFORCE SAFETY & INSURANCE (WSI)
BOARD OF DIRECTORS

WHEREAS, WSI has an obligation to support the protection of North Dakota's workforce through effective safety programs; and,

WHEREAS, to enhance its safety and loss prevention programs and initiatives, WSI proposed legislation to the 59th Legislative Assembly of North Dakota; and,

WHEREAS, the 59th Legislative Assembly of North Dakota passed legislation to appropriate workforce safety and insurance funds on a continual basis;

THEREFORE BE IT RESOLVED THAT effective July 1, 2005, the sum of thirty-five-million dollars (\$35,000,000) from the workforce safety and insurance fund shall be allocated to support safety education, grant, and incentive programs pursuant to North Dakota Century Code section 65-03-04.

Robert Indvik, Chair
On behalf of the WSI Board of Directors

Date



RESOLUTION OF THE WORKFORCE SAFETY & INSURANCE (WSI)
BOARD OF DIRECTORS

WHEREAS, legislation passed by the 59th Legislative Assembly of North Dakota established an educational revolving loan fund for injured workers who are not otherwise eligible for retraining benefits or who exhausted other training and educational opportunities; and,

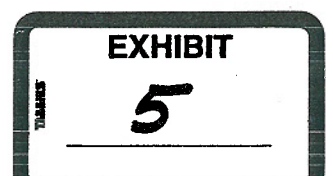
WHEREAS, such legislation provided the total amount loaned annually may not exceed two-million-five-hundred-thousand dollars (\$2,500,000) and the maximum amount payable on behalf of an applicant cannot exceed fifty-thousand dollars (\$50,000) over the course of five years; and,

WHEREAS, such legislation further provided that moneys to establish and maintain the revolving loan fund must be appropriated at the discretion of the WSI Board of Directors;

THEREFORE BE IT RESOLVED THAT effective July 1, 2005, the sum of fifteen-million dollars (\$15,000,000) from the workforce safety and insurance fund shall be allocated to the educational revolving loan fund for the benefit of eligible injured workers.

Robert Indvik, Chair
On behalf of the WSI Board of Directors

Date



STATE OF NORTH DAKOTA

Statement of Net Assets Proprietary Funds June 30, 2007

	Business-Type Activities - Enterprise Funds					Governmental Activities
	Bank of North Dakota	Housing Finance	University System	Workforce Safety and Insurance	Other Enterprise Funds	Internal Service Funds
LIABILITIES						
Current Liabilities:						
Accounts Payable	-	700,000	20,998,786	2,222,249	6,729,352	30,650,387
Accrued Payroll	-	-	21,319,857	-	707,813	22,027,670
Securities Lending Collateral	-	-	-	252,579,982	4,063,812	256,643,794
Interest Payable	-	16,892,000	91,579	-	485,785	17,469,364
Intergovernmental Payable	-	332,000	175,227	-	2,331,163	2,838,390
Due to Other Funds	-	2,111,000	3,981,049	169,718	27,559,556	33,821,323
Due to Component Units	-	-	185,492	-	-	185,492
Contracts Payable	-	-	3,014,779	-	-	3,014,779
Other Deposits	-	-	5,318,917	-	-	5,318,917
Amounts Held in Custody for Others	-	8,304,000	-	-	4,214,307	12,518,307
Claims/Judgments Payable	-	-	-	93,000,000	638,765	93,638,765
Dividends Payable	-	-	-	56,909,336	-	56,909,336
Compensated Absences Payable	-	123,000	1,153,795	707,000	88,527	2,072,322
Notes Payable	-	-	1,029,106	-	-	1,029,106
Capital Leases Payable	-	-	5,160,749	-	27,162	5,187,911
Bonds Payable	-	16,395,000	7,567,850	-	500,000	24,462,850
Deferred Revenue	-	-	11,087,128	63,023,443	3,398,290	77,508,861
Other Current Liabilities	-	-	-	-	10,458	10,458
Total Current Liabilities	-	44,857,000	81,084,314	468,611,728	50,754,990	645,308,032
Noncurrent Liabilities:						
Intergovernmental Payable	-	1,313,000	1,613,403	-	3,090,920	6,017,323
Claims/Judgments Payable	-	-	-	637,900,000	265,806	638,165,806
Dividends Payable	-	-	-	35,698,914	-	35,698,914
Compensated Absences Payable	-	47,000	21,087,846	124,450	925,081	22,184,377
Notes Payable	-	-	5,581,625	-	-	5,581,625
Capital Leases Payable	-	-	40,920,534	-	22,834	40,943,368
Bonds Payable	-	781,690,000	183,057,356	-	84,334,769	1,049,082,125
Other Noncurrent Liabilities	-	-	1,554,907	-	4,049,554	5,604,461
Total Noncurrent Liabilities	-	783,050,000	253,815,671	673,723,364	92,688,964	1,803,277,999
Bank Related Liabilities:						
Interest Payable	-	1,136,000	-	-	-	1,136,000
Due to Other Funds	-	35,203,000	-	-	-	35,203,000
Due to Component Units	-	5,507,000	-	-	-	5,507,000
Federal Funds Purchased	-	222,595,000	-	-	-	222,595,000
Reverse Repurchase Agreements	-	26,550,000	-	-	-	26,550,000
Deposits Held for Other Funds	-	1,267,255,028	-	-	-	1,267,255,028
Other Deposits	-	344,373,972	-	-	-	344,373,972
Other Liabilities	-	3,322,000	-	-	-	3,322,000
Long Term Liabilities:						
Due within one year	-	9,651,000	-	-	-	9,651,000
Due in more than one year	-	247,558,000	-	-	-	247,558,000
Total Bank Related Liabilities	-	2,163,151,000	-	-	-	2,163,151,000
Total Liabilities	-	2,163,151,000	827,907,000	334,899,985	1,142,335,092	143,443,954
NET ASSETS						
Invested in Capital Assets, Net of Related Debt	-	7,119,000	-	462,578,478	11,161,122	46,543,972
Restricted for:						
Capital Projects	-	-	338,275	-	-	338,275
Debt Service	-	76,038,000	11,757,660	-	27,695,747	115,489,407
Loan Purposes	-	-	45,264,320	-	777,559	46,041,879
Pledged Assets	-	138,519,000	4,045,000	-	-	142,564,000
Unemployment Compensation	-	-	-	-	130,901,831	130,901,831
University System-Nonexpendable	-	-	13,190,167	-	-	13,190,167
University System-Expendable	-	-	28,762,868	-	-	28,762,868
Other	-	-	46,608	-	884,477	931,085
Unrestricted	-	17,904,000	8,707,000	140,513,572	455,674,230	117,686,756
Total Net Assets	-	\$ 163,542,000	\$ 88,788,000	\$ 702,451,948	\$ 466,835,352	\$ 324,490,342
	-					\$ 1,746,107,642
	-					\$ 75,394,295

Reconciliation of the Proprietary Funds Statement of Net Assets
to the Statement of Net Assets
June 30, 2007

Total Net Assets - Enterprise Funds

Amounts reported for business-type activities in the statement of net assets are different because:

Prior year net assets restatement and reduction of current year expenses
based on the allocation of internal service fund's net income

Net Assets of Business-Type Activities

\$ 1,746,107,642

5,487,280

\$ 1,751,594,922

The Accompanying Notes are an Integral Part of the Financial Statements

EXHIBIT

6

2007 Senate Bill 2021
Testimony before the Senate Appropriations Committee
Presented by Sandy Blunt, Executive Director/CEO
Workforce Safety and Insurance
January 12, 2007

Mr. Chairman and Members of the Committee:

Good morning. My name is Sandy Blunt and I am the Executive Director and CEO of Workforce Safety & Insurance (WSI). I am here to testify in support of WSI's biennial appropriations bill --SB 2021. On behalf of WSI's Board of Directors and dedicated workforce, I would like to thank the Chairman and the Committee for providing the agency the opportunity to testify today.

As you know, WSI is the sole provider of workers' compensation insurance in the State of North Dakota. WSI was established in 1919 with the purpose of providing wage and medical benefits to workers injured or killed during the course of their employment. Our charge remains unchanged today.

WSI is not a general fund agency and therefore receives no tax dollars. Instead, WSI collects premiums which provide for the payment of medical and wage benefits as well as administrative costs.

Legislative and operational reforms over the past decade have resulted in a better, more stable, and financially strong workers' compensation system. Consequently, because of legislative and stakeholder support, it has been possible for WSI and its Board of Directors to provide expanded benefits, commit \$35 million to matching safety grants, commit \$15 million to low-interest loans, and declare two 40% premium dividend credits. It is estimated that \$150 million has been committed back to North Dakota's economy and workforce.

This has all been done while continuing to work to establish a competitive and stable premium structure. For the third time in a row, the Oregon Department of Consumer and Business Services has cited North Dakota as having the lowest workers' compensation premium rates in the nation.

However, the agency is focused on more than just affordable premium rates. If the system is not adequately providing for the workforce of North Dakota when they are hurt on the job, then the system is failing its commitment to the citizens of North Dakota. The National Academy of Social Insurance ranked North Dakota twenty-sixth in the nation for benefits paid to injured workers.



Additionally, processing times for claims have been significantly improved, litigation rates are at all time lows, and the state's legislative members have consistently improved the benefit structure for injured workers each and every session since the Board's creation in 1997 (Attachment 1). These combined efforts have provided for a benefit structure with less ambiguities, a commitment to promptly serving our customers, and a focus on increased benefits for the most severely injured.

Most importantly, strategic partnerships with North Dakota's employers and employees have led to fewer severe injuries than we have seen in the past. This is a great outcome for the families of North Dakota's workers. However, until we see zero injuries, there is still much work to do. In order to remain as one of the nation's premier systems, workplace safety must continue to be a top investment and priority because the best injury is the one that never happened.

WSI is committed to delivering the services and advancements to North Dakota's workforce that they expect and deserve. And the organization feels that the budget presented today continues to provide the necessary resources to not only sustain these positive results, but also ensure WSI continues to build on these results for the benefit of North Dakota and its workforce. In devising this budget, expenditures were reduced where possible while still remaining efficient and effective: efficient in managing our organization's use of premium dollars to maintain financial stability; and, effective in professionally and personally providing quality services to our injured workers and employers.

Presented for your consideration is WSI's administrative budget request of \$50,020,991. However, WSI's Board of Directors had originally approved and submitted a biennial appropriation request of \$53,289,914 and we stand before you today with Board consent asking that the committee amend and restore the budget to the originally approved and submitted level of \$53,289,914. If restored, WSI's biennial budget will be nearly \$20 million larger than the last biennium's request. The increase mainly results from the request for 15 additional FTEs and a \$14 million investment in new information technology.

	Current Appropriation 2005-2007	Executive Recommendation 2007-2009	WSI Request 2007-2009	Change in WSI Request from 2005-2007	Change in WSI Request from 2005-2007 Excluding the \$14,000,000
Agency Appropriation	33,523,001	50,020,991	53,289,914	19,766,913	17.2%
Total FTE	223.14	223.14	238.14	15.00	7%

Specifically, there were two primary reductions made to WSI's originally submitted budget which WSI is asking for reinclusion. The first reduction removed the request for 15 additional FTEs in the amount of \$1,837,636 to continue to support the agency's mission. The fifteen additional FTE's are: five Claims Adjusters, four Loss Prevention Specialists, two Loss Control Specialists, one Underwriter, one Return to Work Specialist, one Information Service Specialist, and one Facilities Maintenance position to be funded from the Building Operations continuing appropriations fund. Additional detail for the FTE's can be found in Attachment 2 and funding and return on investment charts for the safety and claims positions can be found in Attachment 3.

The second reduction removed funding dedicated to staff development and already provided market salary adjustments that enable WSI to retain and recruit a qualified workforce. These adjustments were recommended by HayGroup following its compensation analysis.

Even with these increases in salary and development costs, WSI's administrative costs will still remain lower than workers' compensation carriers in other states. WSI's administrative expense ratio will run approximately 15%, as compared to the industry average of 25% to 35%.

The agency's current budget request also includes a major computer system upgrade with an estimated initial investment of up to \$14 million over the next two years. **The funding for the system request would be paid from the agency's excess surplus and would not be seen as an increase to an employer's premium.** The primary information systems that support WSI business operations were designed and developed more than ten years ago. The cost of upgrading and maintaining these systems now outweighs their performance returns. Additionally, the increasing maintenance and weaknesses of the current technology has resulted in several audit recommendations for WSI to address its information system tools.

In closing, WSI would like to note to the Committee that the agency will be seeking an amendment to SB 2015 to specifically exempt the agency from any state employee general compensation increases. In the originally submitted Board budget of \$53,289,914, WSI had budgeted for a 3.5% & 3.5% increase to be allocated in accordance with WSI's pay-for-performance system.

Lastly, in Attachment 4 you will find an outline for each of WSI's 12 continuing appropriations as required by section 34 of 2003 Senate Bill 2015. And, in Attachment 5 you will find WSI's January 01, 2004, to January 1, 2007, contracted employee listing. Thank you again for your time today and your consideration of WSI's biennial appropriation request. At this time, I and the members of WSI's staff would be glad to answer any questions you may have regarding Senate Bill 2021.

Attachment 1

The following benefit enhancement provisions were either passed in prior sessions or are being considered this session:

1997 Legislation

Increased weekly death benefits for surviving spouses (SB 2116)
Created the Guardian Scholarship program (SB 2116)
Established a post-retirement additional benefit (SB 2125)

1999 Legislation

Increased permanent partial impairment awards for the severely impaired (HB 1422)
Increased the maximum disability benefit from 100% to 110% of the State's Average Weekly Wage (SB 2214)
Shortened the waiting period for eligibility for cost of living adjustments from 10 years to 7 years (SB 2214)

2001 Legislation

Increased certain permanent partial impairment awards (HB 1161)

2003 Legislation

Increased lifetime cap on death benefits from \$197,000 to \$250,000 (HB 1060)
Established a \$50,000 home remodeling and vehicle adaptation allowance for catastrophic injured workers (HB 1060)
Increased the maximum amounts for scholarship awards (HB 1120)

2005 Legislation

Established additional safety incentives (HB 1125)
Established ongoing funding for safety education, grant, and incentive programs (HB 1125)
Created retraining options for injured workers (HB 1171)
Established a \$15 million injured worker educational revolving loan fund (HB 1491)
Increased the non-dependency death award (HB 1506)
Increased post-retirement additional benefit payments (SB 2351)

2007 Legislative Benefit Enhancement Proposals

Provides funds for the purchase or adaptation of motor vehicles for the catastrophically injured (HB 1038)
Provides increased post-retirement additional benefits for certain injured workers (HB 1038)
Expands the population that is eligible for death benefits (HB 1038)
Expands the eligibility pool for WSI's revolving loan fund (HB 1038)
Shortens supplementary benefit eligibility period from seven years to three years (HB 1038)
Provides inflation adjustment for long-term Temporary Partial Disability benefit recipients (HB 1140)
Provides benefits for firefighters and law enforcement officers in the event of a false positive test (SB 2042)
Increases weekly dependency allowance from \$10 to \$15 per week (SB 2072)

Attachment 2

Workforce Safety & Insurance					
2007-2009 Biennium					
FTE Request with Salary & Expenses					
Position	Department	Quantity	Biennial Impact Per EE	Total Biennial Impact	Rationale
Information Services	Information-Technology	1	\$131,238.00	\$131,238.00	An additional employee will be needed to support the organization's transition from its aging core computer systems to a commercial-off-the-shelf (COTS) application. This employee will assist in the coordinated effort to provide a more robust and convenient technology solution for WSI's stakeholders.
Facilities' Maintenance	Facility Management	1	\$16,180.00	\$16,180.00	The Facilities' Maintenance position will be responsible for duties related to the upkeep of WSI's facility for all tenants. This employee primarily performs work out-of-scope of WSI's contracted cleaning staff and equipment maintenance staff who are contracted with on an "as-needed" basis. Employee currently works for WSI as a "Temporary" employee. This position would be funded from the Building Operations rent collections rather than premium dollars.
School Monitoring Specialist	Return To Work	1	\$113,986.00	\$113,986.00	One School Monitoring Specialist is requested to provide on-site services to employers and injured workers, assisting with successful coordination of return to work or stay at work options. This position would conduct the similar duties of a currently contracted position at a lower rate than the current contract price.
Underwriter	Policyholder Services	1	\$130,726.00	\$130,726.00	One additional Underwriter is requested to expedite approval of workers' compensation coverage for employers who have submitted applications. Currently, members of the Policyholder Services staff are working through a backlog. Without this increase in staff, employers requesting coverage may experience unanticipated delays.
Loss Prevention Representative	Loss Prevention	4	\$180,914.00	\$723,656.00	Four additional Loss Prevention Representatives are requested to continue to support and expand WSI's proactive safety programs. It is predicted that the addition of these positions will have a return on investment greater than their costs through reduced injuries and injury costs.

Loss Control Representative	Loss Control	2	\$135,400.00	\$270,800.00	WSI is in the process of building a Loss Control Division. These Loss Control Representatives will help develop programs designed to work with injured workers and employers to safely return the worker back to the workplace and advise employers on how to better manage their individual claim programs.
Claims Adjuster	Claims	5	\$90,210.00	\$451,050.00	During the 2006 Performance Evaluation, WSI was advised that Claims' Adjusters should allocate 10 hours for every Time Loss claim and 2 hours for every medical only claim. Based on analyzed claim volume, WSI is understaffed in its claims management area by approximately 9.12 adjusters. Based upon proactive safety programs and the implementation of a more robust IS system, WSI is requesting five additional Claims' Adjusters in order to dedicate the time needed to effectively support ND's injured workers.
Total		15		\$1,837,636.00	

Attachment 3

2005 House Bill No. 1531
Testimony before the House Industry, Business, and Labor Committee
Presented by: Sandy Blunt, Executive Director & CEO
Workforce Safety and Insurance
April 4, 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 House Bill 1531 (HB 1531). HB 1531 amends section 65-04-02 of the North Dakota Century Code relating to workforce safety and insurance fund reserve balance and rate of discount. The WSI Board of Directors supports this bill.

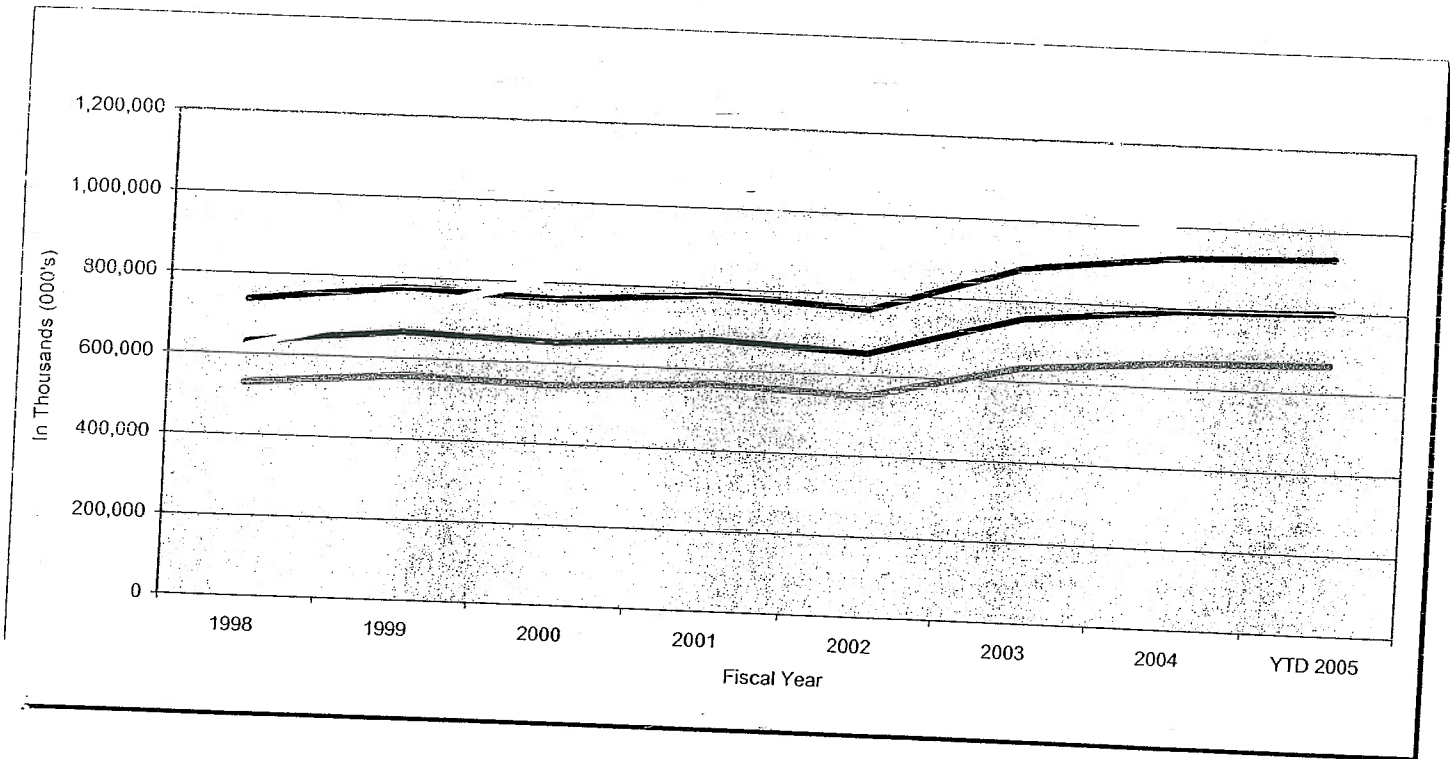
Current law requires WSI to "maintain adequate financial reserves to ensure the solvency of the fund and the payment of future benefit obligations, based upon actuarially sound principles." HB 1531 sets the maximum discount rate to be used in evaluating the financial reserves at six percent. Discounting of loss reserves is a common practice within the workers' compensation industry. WSI's current discount rate is five percent and was established and approved by WSI's Board of Directors after a comprehensive study and analysis and consultation with investment, financial, accounting, and actuarial experts.

HB 1531 also sets the financial reserve surplus range. Currently, the law requires the maintenance of adequate reserves to ensure ongoing solvency. Over the past decade WSI's financial position has improved from a significant deficit position to one that is now solvent. The proposed language codifies the Board's current operating policy by setting a reserve plus surplus range of one hundred and twenty percent to one hundred and forty percent of the actuarially established discounted reserve.

I would be happy to answer any questions at this time.



Workforce Safety & Insurance
Financial Reserves and Surplus (5% Discount on Liabilities)
Current Position and Last 7 Years



CALCULATION (in 000's)

	1998	1999	2000	2001	2002	2003	2004	YTD 2005
Unpaid loss and LAE, discounted at 5%	525,700	553,700	543,000	561,000	545,700	630,100	659,200	666,200
Total fund surplus	142,319	206,274	332,942	332,632	341,073	337,396	403,652	459,107
Less: Unrealized investment gains	(49,085)	(47,728)	(55,548)	(12,865)	0	(32,884)	(52,191)	(58,532)
Total Financial Reserves and Surplus	618,934	712,246	820,394	880,767	886,773	934,612	1,010,661	1,066,775
Total Financial Reserves and Surplus	618,934	712,246	820,394	880,767	886,773	934,612	1,010,661	1,066,775
Unpaid loss and LAE, discounted at 5%	525,700	553,700	543,000	561,000	545,700	630,100	659,200	666,200
Financial Ratio	117.7%	128.6%	151.1%	157.0%	162.5%	148.3%	153.3%	160.1%
Low End of Ratio (120%)	630,840	664,440	651,600	673,200	654,840	756,120	791,040	799,440
High End of Ratio (140%)	735,980	775,180	760,200	785,400	763,980	882,140	922,880	932,680

WSI Reserve Surplus Proposal

Workforce Safety & Insurance (WSI) is the exclusive provider of workers' compensation insurance and benefits in the state of North Dakota. WSI is funded solely by employer premiums; no general fund tax dollars are received. A critical function of WSI is to maintain adequate financial reserves and surplus to ensure the ongoing solvency of the fund and the payment of future benefit obligations.

By making sound investments over the last nine years, WSI's reserve fund has seen steady growth. WSI's portfolio has earned an average of 8.71% each year, accounting for 86 percent of the fund growth since 1995. At their November 17, 2004, meeting, WSI's Board of Directors adopted a funding policy to record reserves on a discounted basis and established a fund surplus target and hold 2 to 2.5 times an average annual premium (about \$250 million) as a surplus target to protect against any adverse events in the future. When available net assets are greater than the surplus target, WSI will be in a reserve surplus position. Based on this new methodology, at June 2004, the estimated reserve surplus was approximately \$101 million and the surplus is estimated to be \$110 million as of October 31, 2004.

	2004	2005*
Total assets	\$1,387,479,278.00	\$1,422,208,863.00
Total liabilities	\$(983,827,597.00)	\$(988,230,927.00)
Net assets	\$403,651,681.00	\$433,977,936.00
Unrealized investment gains	\$(52,190,568.00)	\$(73,367,419.00)
Available net assets	\$351,461,113.00	\$360,610,517.00
Surplus Target, \$250 m	\$250,000,000.00	\$250,000,000.00
Reserve Surplus	<u>\$101,461,113.00</u>	<u>\$110,610,517.00</u>

*Estimated as of October 31, 2004

WSI Staff Recommendations

Due to the estimated reserve surplus of \$110 million, the Board has asked the staff of WSI to recommend some alternatives to draw down the surplus. Please note again that the amounts noted in the document are estimates only and are not guaranteed to represent the actual balance of the fund at the time the final decision are recommended to be made. Consequently, the corresponding recommendations on any credits are proposed sample amounts. All final decision on credits should be made by the Board at the time premium rates are voted upon next spring. Some portion of these recommendations, if approved, will require new legislation. In addition, the full and complete details and operational guidelines must still be produced if concepts are approved.

WSI Staff recommends:

1. Committing \$35 million to developing new Safety Initiatives consisting of education, grants, and/or incentives;
2. Committing \$15 million to establishing a WSI Educational Revolving Loan Fund for injured workers; and
3. Committing, \$60 million over two years in premium dividend credits of 40% and 20% respectively to employers during the 2005/2006 premium years.

Below is the statutory analysis for the above proposals and the best ways to fund these ideas and strategies.

Safety Initiatives

Statewide claim frequency increased for the first time in years during 2004. To assist WSI in controlling claim frequency, WSI is proposing using the \$35 million to conduct an aggressive, multi-year program on safety awareness and action. In addition to the education, WSI is proposing to create a matching grants program for employers to purchase safety equipment, education, workplace modifications, etc.

WSI has authority under NDCC 65-03-04 to create and operate safety programs through loss prevention interventions including education, training, consultation, grants, or incentives. While statutory authority exists for safety programs, a flexible funding mechanism does not. Funding must come through the legislative appropriation process or in the form of premium discounts offered to employers. We recommend seeking approval from the legislature for a continuing appropriation as a funding mechanism to allow WSI to pursue additional means of promoting safer workplaces by allocating a portion of the reserve surplus to safety.

Workforce safety and insurance educational revolving loan fund

The organization proposes establishing a revolving loan fund to provide low-interest loans to individuals who has suffered a compensable work injury. The loans must be used to pursue an education at an education at an accredited institution of higher education or an institution of technical education. The revolving fund would be a special fund and maintained as a separate account and invested pursuant to 21-10-06. The Bank of North Dakota and the WSI would together determine the financial criteria that must be met for an applicant to be approved. The loan would have a fixed rate of one percent below the Bank of North Dakota's prime interest rate and the interest on the loan would not begin accruing until the first payment is made. The total amount loaned annually would not exceed \$2,500,000. The maximum amount payable on behalf of an applicant may not exceed \$50,000 and must be paid out within five years. Repayment would begin when the individual: a) receives his/her degree; b) ceases to continue to pursue his/her degree; c) is released by the institution for cause; and d) not later than some number of years after the initial loan is accepted. A loan would be required to be repaid within a period not to exceed twenty years. Investment income upon moneys in the fund and collections of interest and principal on loans made from the fund are appropriated on a continual basis to maintain the fund.

Premium Dividend

Authority for a return of dollars involving premium calculations programs is provided by North Dakota Century Code (NDCC) 65-04-19.3 and Administrative Rule 92-01-02-55.

WSI recommends returning a portion of the surplus in the form of premium dividend credits for employers. The credits are proposed to be applied to renewals beginning July 01, 2005 and offered on a year-by-year basis as appropriated and available. The premium reduction should be taken as a flat percentage credit of total premium due for the reporting period. The return of premium would be calculated using estimated premium and be reconciled at year end using actual premium for the respective policy period.

The reduction of premium should be implemented in conjunction with the policy year and applicable to all employers who have active accounts for the period specified and would not apply to minimum premium accounts or accounts in a delinquent/unsatisfactory status. The amount of the premium credit should be determined using the most recent reserve surplus information available prior to the policy year being proposed to receive the credit. All decisions on the final amount of the credit should be tied to the actual balance of any surplus of the fund at the time the credit is being proposed and should not be made until after the final and appropriate premium rates have been set for the policy year being considered. Any potential premium credits to be offered should not be used in determining the appropriate and necessary rates required to assure fiscal stability. WSI premium rates should serve the correct purpose of collecting the actuarially estimated costs of the year in which they are charged.