

2009 HOUSE APPROPRIATIONS

HB 1021

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1021

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: January, 22, 2009

Recorder Job Number: 7587

Committee Clerk Signature

*Shirley Branning*

Minutes:

**Chairman Skarphol:** The meeting was called to order on HB 1021 by introducing **interim Director, Bruce Furness.**

**Furness:** Testimony was given, see attachment #1.

**Chairman Skarphol:** Has the Governor's Office given you any indication as to who they might have as the liaison with your office?

**Furness:** No, they haven't. There is sort of a tentative date when that might happen.

**Rep. Wald:** How much longer you gonna be around?

**Furness:** The Governor asked me to stay until the end of the session.

**Rep. Wald:** Are you getting candidates who have come forward and may want the job?

**Furness:** In December they had several candidates in mind.

**Cindy Ternes, Director of Finance Workforce Safety and Insurance:** Testimony was given, see attachment # 2. Reference was given to P. 5, the Historical Benefit Enhancement and Current Proposals. Reference was made to P. 7, Projected Cost of the 10 New RTW FTEs. The last biennium \$14M was appropriated, \$8M was spent in the 07-08 biennium and a request is made to reappropriate the \$6M to be spent in the 09-10 biennium. An amendment

to the Bill is found on P. 6 of \$1.355M to provide wages, salaries and benefits for additional FTE positions for the vocational rehabilitation program .

**Rep. Kroeber:** There is a limited amount of equity dollars, what are those?

**Ternes:** \$500,000.

**Rep. Wald:** You mentioned the monograph services, this is to make sure that drugs don't interact unfavorably. Isn't that the responsibility of the doctor and the pharmacist? Are you walking into a liability situation you may not want to encumber?

**Ternes:** I could talk to the pharmacists on staff and get a response to that.

**Rep. Wald:** Has that been a problem? Have you had any claims that were lingering because of inappropriate prescriptions?

**Ternes:** I couldn't delve into that. The pharmacist could provide better information on that.

**Rep. Klein:** In regard to the discretionary FTEs, you say you're going to make a decision to determine whether it would be more efficient. Are you deciding it at the time?

**Ternes:** Currently we are working with a vendor that we have contracted with and we have worked with him for a number of years. This year the negotiations were more difficult than in the past. We continue to monitor, should it be needed.

**Chairman Skarphol:** When does your current situation with your vendor expire?

**Ternes:** We've been in the contract about 6 months, a two year contract with an option to renew for two with termination clauses within contracts.

**Rep. Wald:** You are hiring 6 safety persons.

**Ternes:** We have hired those 6 safety consultants, 4-5 months ago.

**Rep. Wald:** Where are they stationed?

**Furness:** Can't give precise numbers but they are in 8 major cities, for a total of 12.

**Rep. Wald:** With the oil rigs, in Dickinson and Williston, how many?

**Furness:** We didn't have anyone in Dickinson before, to reduce the work load for the guy in Williston, we have the person in Dickinson and they swap back and forth. We recognize the importance of safety in the oil industry.

**Rep. Klein:** The vocational rehab people, do you have the equipment and the space to work that out of your operation? Would you have to find another location and equipment to do that?

**Ternes:** We did evaluate office space needs in most of areas. We would already have an office in place but might have to do remodeling of the leased buildings. Equipment would include office equipment, computers and those have been worked into the budget presentation.

**Rep. Wald:** When we built the WSI building, there was a stipulation in that building that they pay property taxes like any other private building owner. What are your real estate taxes for the current year?

**Ternes:** We pay in lieu of property taxes about \$248,000 a year.

**Rep. Wald:** What were those equity dollars you mentioned earlier?

**Ternes:** \$500,000 for the biennium.

**Chairman Skarphol:** I'm not seeing them on the list.

**Joe Morrisette, OMB Staff:** I think that was included in their request and not added through the executive recommendation process.

**Chairman Skarphol:** These are all added equity dollars reflected on here? Your employees are classified as of the initiated measure, correct?

**Ternes:** Correct, at the time the budget was submitted into the BARS, we were not.

**Chairman Skarphol:** Is that the difference, potentially?

**Ternes:** That would be my understanding.

**Rep. Wald:** When you were non classified, most of your people all were on a defined contribution retirement plan. Now, it would be defined benefit.

**Ternes:** Employees of WSI, when we were not classified, were given the option to either enroll in defined benefit or defined contribution plan. That option was not retractable and we are required to stay under whichever plan we originally elected to be under.

**Rep. Wald:** You could stay with a defined contribution if you chose.

Do you know what the mix is? The ITT program, that's a carryover of \$6M?

**Ternes:** Correct.

**Chairman Skarphol:** We passed some legislation with regard to funds and the balance, there was like \$20M in the safety fund. Could you give us the specifics on those three funds?

**Ternes:** As of October, \$20.231M in the safety education fund, \$14.983M in the revolving school loan fund, \$9.343M in the ITTB update.

**Chairman Skarphol:** The ITTB update intrigues me. The dollars we appropriated in the last biennium was \$14M. Is that the balance of those \$14M that's in that fund?

**Ternes:** As of the end of October.

**Chairman Skarphol:** Joe and Roxanne, am I not correct in that if you have an information technology project, it is ongoing. It is treated like a capital project and that the money does not have to be reappropriated but can be carried forward to complete the project?

**Morrisette:** I believe that it can be carried over, subject to the approval of the carryover authority.

**Chairman Skarphol:** That being the case, are you anticipating spending another \$3M before the end of this biennium. Is that the reason that you only need the carryover of the \$6M?

**Ternes:** The consultant from the state has made these estimates. By the end of the biennium we will not have spent that but will require that in the next biennium.

**Chairman Skarphol:** You can carry forward unexpended IT funds and Capital IT project funds.

**Rep. Wald:** Requests a copy of the supplemental funds.

**Chairman Skarphol:** With regard to the claims back scanning. What time period are you looking at and why?

**Ternes:** Currently we have been working on our policy back scanning and the claims back scanning is budgeted for the next biennium. WSI has some extreme retention policies dealing with both claims and policies.

**Chairman Skarphol:** Is there a policy with regard to those that will be backscanned and those that will not, i.e. inactive files.

**John Halvorson, WSI:** We've been scanning since 1995. We do have many old and inactive claims. Occasionally we have claims that we open. We want complete files of those that are open.

**Chairman Skarphol:** If you want to reopen a claim you would want to backscan it.

**Rep. Wald:** I am looking at attachment # 1 where you have about a dozen new proposals and I assume most are increase in benefits. Do you have any kind of preliminary numbers to what all these proposals would cost in terms of claims dollars?

**Halvorson:** We do an actual impact statement on any benefit proposal with Legislative Council.

**Rep. Wald:** Is there a "ball park" you can share with us?

**Halvorson:** \$3-4M reserve for partial impairment. Maximum disability benefit, which is \$1-2M per premium per year. Death benefits \$250,000-\$300,000, etc.

**Rep. Wald:** How many policy holders today?

**Halvorson:** We have about 19,600.

**Rep. Wald:** What is your premium income for 2008?

**Halvorson:** It is approaching \$150M. That would be net of safety discounts.

**Chairman Skarphol:** Close the hearing on HB 1021. One more question.

\$3.5M increase in the salary line. The fringe benefits in BARS are \$1.5+M.

Elsewhere it is reflected at \$1.8M, Is that the salary increase from this biennium?

**Morrisette:** That would be the 5 and 5 calculation.

**Chairman Skarphol:** And the fringe benefits for that 5 and 5 are \$1.5M?

**Morrisette:** There is an increase account code of \$293,000, percentage benefit that is a function of the 5 and 5. Health insurance increase is mixed into the fringe benefit account code.

**Chairman Skarphol:** Salary increase for employees at WSI for this year is \$1.9M.

The balance of the \$3.5M would be the fringe?

**Morrisette:** Made up of any other changes in salaries to continue their current salary level and the cost of the health insurance increase.

**Ternes:** I think part of that was the 2007-09 biennium. WSI did not receive any increase in fringe benefit appropriation. About \$500,000 was not appropriated.

**Rep. Williams:** Expressed appreciation to Mr. Furness for what he has given to WSI.

**Chairman Skarphol:** Hearing closed.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1021

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8681

Committee Clerk Signature

*Shirley Branning*

Minutes:

**Chairman Skarphol:** Called the meeting to order to review HB 1021.

First we will address the equity issue.

**Sandi Deis, OMB Analyst:** Based upon the final submission of their budget, there are no equity increases included in the 09-11 budget. The amount is zero.

**Chairman Skarphol:** Brady are you on board with that?

**Larson:** Yes.

**Chairman Skarphol:** We don't have an equity issue here as far as we're concerned.

**Cindy Ternes, Director of finance for Workforce Safety and Insurance:** We had current equity dollars in the 07-09 biennium. The analysis by the Hay Group had not been completed by the time the budget was submitted, before this session. I requested that we keep those equity dollars going forward. We did not feel that we were at liberty to award any equity dollars based upon the language of the measure. Those dollars have been built in but not awarded. The issue is the CEO change and we do not know what the salary will be.

**Chairman Skarphol:** But they are not designated in the budget in any way, shape or form as equity dollars.



**Ternes:** Our submittal was but after Sandi reviewed it and resubmitted it, they were not included as equity dollars in the OMB budget. Correct.

**Deis:** That is correct, there are \$1M budget and I can show you that in the pay plan that was scheduled to be equity increases during the current biennium then to carry that forward.

**Ternes:** HRMS is still reviewing but is not completed.

**Rep. Kroeber:** When you look at what you handed out on your salaries and wages line item and you are talking about \$1M someplace for equity that has not determined yet from this biennium, is that what I'm hearing?

**Ternes:** Correct.

**Rep. Kroeber:** Is that \$1M somewhere here in the \$3.5M, or is there another \$1M in addition to the 3.5?

**Ternes:** That is inclusive.

**Rep. Kroeber:** So the million is in the 3.5 increase.

**Ternes:** Absolutely, yes.

**Rep. Klein:** I am looking at your sheet, what are equity 1, equity 2, and equity 3. How does that work?

**Ternes:** When we submit our budget into BARS, we are limited as to how to input some of those increases.

Equity1 was the actual equity dollars plus the related fringe.

Equity 2, 3, 4 and 5 were the salary increases we were looking at for those 4 divisions. When we worked with Sandi, those were removed and the salary increases were added on under the Governor's recommendation. So equity 2-5 were completely removed

And part of equity 1 was removed. The part that we had implemented as fringe benefits because OMB had also calculated that and added that in under the Governor's recommendation.

**Chairman Skarphol:** When do you expect resolution from HRMS on this?

**Ternes:** Hoping by end of session.

**Chairman Skarphol:** The document on Claim Filing, see attachment #1. I'm assuming that this is to back scan all of the pre '95 stuff. Do you think that it is all encompassing, that's enough to get the job done for however many claims you want to do?

**Ternes:** I did some research after our last meeting and you are right, we have been scanning claims for over ten years. We do scan them as they come in now, new or old, so we can keep current. This project is to scan those claims that only had the partial file scanned. We think that this should be sufficient.

**Chairman Skarphol:** You provided other documentation with regard to some Pharmacy Monogram service. Rep. Wald wanted to talk about the pre schedule comparison.

**Rep. Wald:** Referring to attachment #2, physician services. They are 75% better than Medicaid and Medicare, 9.5% above Blue Cross Blue Shield. The other is other commercial insurance. WSI is about 2% of physician services. He addresses the fee change on p. 2. This gives you an idea of how they pay inpatient and outpatient services. Is pharmacy higher?

**Ternes:** I have no idea, but can get it.

**Chairman Skarphol:** We do have the 5 and 5 issue that is still being talked about but we can move forward.

**Ternes:** We have one other response from the last meeting regarding the defined benefit and defined contributions plan. Any WSI employee hired before the initiated measure passed can

opt into either plan. Employees hired after the initiated measure are restricted to the defined benefit plan and the mix is about 50/50.

**Chairman Skarphol:** The defined contributions plan is portable, right?

**Ternes:** Yes.

**Rep. Wald:** I would move a Do Pass.

**Rep. Klein:** Second

**Chairman Skarphol:** Any further discussion, if not we'll take the role. Rep. Wald is going to carry this.

**Vote Taken:** Yes 8 No 0 Absent 0 Motion Carried. Carrier: Rep. Wald.

**Chairman Skarphol:** Meeting adjourned.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1021

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 17, 2009

Recorder Job Number: 9614

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chm. Svedjan turned the discussion to HB 1021. Rep. Skarphol distributed amendment .0101 (Attachment A).

Rep. Wald explained the amendment. I move the amendments.

Rep. Skarphol: 2<sup>nd</sup>.

Chm. Svedjan: 2<sup>nd</sup> by Rep. Skarphol. Any discussion?

Rep. Ekstrom: WSI is not shown on the equity pool at all. Will they be having an equity pool at all?

Chm. Svedjan: They are listed.

Rep. Kroeber: Because of the vote moving them back into the classified system. They did not go back into the process. They have money to take care of any equity. They are o.k. financially.

Rep. Berg: Are we encouraging them to start their own rehab services within WSI?

Rep. Wald: If they are not satisfied with the proposals coming forward they have no choice. I think it's a good move on their part to have this in reserves.

Chm. Svedjan: Is the language sufficiently written to be a contingency.

Rep. Skarphol: It says, the director of WSI may hire upon a determination that the employees are needed. They could be held hostage by that vendor. They asked for this amendment to negotiate with the single vendor.

Rep. Berg: I have no problem giving them a chip to help with their negotiations. We did this ten years ago and it evolved into a \$10 million building in north Bismarck. If we do not have enough private sector interest and we take this in house, we'll not encourage private sector rehab services, but probably work the opposite. We will be doing the rehab itself. I support this from the negotiating standpoint. I would much rather see us doing something long term.

Rep. Glassheim: Is this a new service? That was bid in the past?

Rep. Wald: Rehab has been ongoing for a long time. They only have one vendor.

Rep. Glassheim: Is this a new service or has someone been providing it in the past? I just wondered if the \$1.3 is what we have spent in the past.

Rep. Kroeber: More effective to do so. WSI currently contracts with rehabilitation vendors to provide these services. Existing vendor has rehabilitation consultants located throughout the state to work with injured workers. WSI periodically issues request for competitive bids for these services. The intent is to have a fallback mechanism exists in the event of a limited response to future proposals they make for vocational rehabilitation services.

Chm. Svedjan: But nowhere does it say what the current cost of services is?

Rep. Kempenich: Why wasn't this in their budget?

Rep. Wald: Frankly they overlooked it.

Chm. Svedjan: Any further discussion? Seeing none on the motion to adopt the amendment 0101 to HB 1021 we'll take a voice vote – all in favor say Yea – Unanimous Voice Vote –

Opposed Nay – none. The amendments are adopted.

Rep. Wald: Move a Do Pass As Amended.

Rep. Klein: 2<sup>nd</sup>.

Chm. Svedjan: Moved by Rep. Wald, 2<sup>nd</sup> by Rep. Klein for a Do Pass As Amended. Any further discussion? Seeing none we'll take a roll call vote on a Do Pass As Amended to HB 1021.

Vote: 23 Yes      0 No      2 Absent      Carrier: Rep. Wald      Motion Carries

Date: January 29, 2009  
Roll Call Vote #: 11

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1021

House House Appropriations Education and Environment Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Wald Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Bob Skarphol – Chairman	✓		Joe Kroeber	✓	
Francis Wald – Vice Chairman	✓		Kenton Onstad	✓	
Kathy Hawken	✓		Clark Williams	✓	
Matthew M. Klein	✓				
Bob Martinson	✓				

Total Yes 8 No 0

Absent 0

Bill Carrier Rep. Wald

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

98021.0101  
Title.  
Fiscal No. 1

Attachment A  
Prepared by the Legislative Council staff for 2/17/09  
Representative Skarphol  
February 16, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1021

Page 1, line 2, after "insurance" insert "; and to authorize and provide an appropriation for additional full-time equivalent positions for workforce safety and insurance"

Page 1, after line 11, insert:

**"SECTION 2. WORKFORCE SAFETY AND INSURANCE FULL-TIME EQUIVALENT EMPLOYEE POSITIONS AUTHORIZATION - APPROPRIATION.** The director of workforce safety and insurance may hire, upon a determination that employees are needed to facilitate the economic and efficient administration of the entity's vocational rehabilitation program, up to ten full-time equivalent employee positions in addition to the full-time equivalent employee positions authorized in section 1 of this Act for the biennium beginning July 1, 2009, and ending June 30, 2011. There is appropriated out of any moneys in the workers' compensation fund, not otherwise appropriated, the sum of \$1,355,000, or so much of the sum as may be necessary, to workforce safety and insurance for the purpose of defraying the expenses of any additional full-time equivalent positions authorized under this section, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98021.0101 FN 1**

**A copy of the statement of purpose of amendment is attached.**



**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1021 - Workforce Safety and Insurance - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Workforce Safety and Insurance	\$54,455,605	\$1,355,000	\$55,810,605
Total all funds	\$54,455,605	\$1,355,000	\$55,810,605
Less estimated income	54,455,605	1,355,000	55,810,605
General fund	\$0	\$0	\$0
FTE	237.14	10.00	247.14

**Department No. 485 - Workforce Safety and Insurance - Detail of House Changes**

	<b>Provides Funding for Additional FTE Positions<sup>1</sup></b>	<b>Total House Changes</b>
Workforce Safety and Insurance	\$1,355,000	\$1,355,000
Total all funds	\$1,355,000	\$1,355,000
Less estimated income	1,355,000	1,355,000
General fund	\$0	\$0
FTE	10.00	10.00

<sup>1</sup> This amendment allows the director of Workforce Safety and Insurance to hire up to 10 additional FTE positions upon a determination that employees are needed to facilitate the economic and efficient administration of the agency's vocational rehabilitation program and provides a \$1,355,000 special funds appropriation for the additional FTE positions.

Date: 2/17/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1021

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98021.0101

Action Taken Adopt Amendment .0101

Motion Made By Wald Seconded By Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote - carries*

VR  
2/17/09  
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1021

Page 1, line 2, after "insurance" insert "; and to authorize and provide an appropriation for additional full-time equivalent positions for workforce safety and insurance"

Page 1, line 10, replace "1,214,450" with "169,392" and replace "54,455,605" with "53,410,547"

Page 1, after line 11, insert:

**"SECTION 2. WORKFORCE SAFETY AND INSURANCE FULL-TIME EQUIVALENT EMPLOYEE POSITIONS AUTHORIZATION - APPROPRIATION.** The director of workforce safety and insurance may hire, upon a determination that employees are needed to facilitate the economic and efficient administration of the entity's vocational rehabilitation program, up to ten full-time equivalent employee positions in addition to the full-time equivalent employee positions authorized in section 1 of this Act for the biennium beginning July 1, 2009, and ending June 30, 2011. There is appropriated out of any moneys in the workers' compensation fund, not otherwise appropriated, the sum of \$1,355,000, or so much of the sum as may be necessary, to workforce safety and insurance for the purpose of defraying the expenses of any additional full-time equivalent positions authorized under this section, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98021.0102 FN 2**

A copy of the statement of purpose of amendment is attached.

**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1021 - Workforce Safety and Insurance - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Workforce Safety and Insurance	\$54,455,605	\$309,942	\$54,765,547
Total all funds	\$54,455,605	\$309,942	\$54,765,547
Less estimated income	54,455,605	309,942	54,765,547
General fund	\$0	\$0	\$0
FTE	237.14	10.00	247.14

**Department No. 485 - Workforce Safety and Insurance - Detail of House Changes**

	<b>Reduces Funding for Anticipated Salary Savings<sup>1</sup></b>	<b>Provides Funding for Additional FTE Positions<sup>2</sup></b>	<b>Total House Changes</b>
Workforce Safety and Insurance	(\$1,045,058)	\$1,355,000	\$309,942
Total all funds	(\$1,045,058)	\$1,355,000	\$309,942
Less estimated income	(1,045,058)	1,355,000	309,942
General fund	\$0	\$0	\$0
FTE	0.00	10.00	10.00

This amendment reduces salaries and wages funding to recognize anticipated savings from vacant positions and employee turnover.

<sup>2</sup> This amendment allows the director of Workforce Safety and Insurance to hire up to 10 additional FTE positions upon a determination that employees are needed to facilitate the economic and efficient administration of the agency's vocational rehabilitation program and provides a \$1,355,000 special funds appropriation for the additional FTE positions.

Date: 2/17/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1021

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0101

Action Taken No Pass is Amended

Motion Made By Wald Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 23 No 0

Absent 2

Floor Assignment Wald

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

**REPORT OF STANDING COMMITTEE**

**HB 1021: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (23 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1021 was placed on the Sixth order on the calendar.

Page 1, line 2, after "insurance" insert "; and to authorize and provide an appropriation for additional full-time equivalent positions for workforce safety and insurance"

Page 1, line 10, replace "1,214,450" with "169,392" and replace "54,455,605" with "53,410,547"

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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98021.0102 FN 2**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 SENATE APPROPRIATIONS

HB 1021

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1021

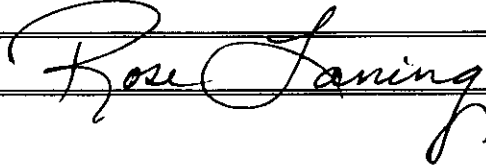
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10337 (starting at 7:30)

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the committee hearing to order on HB 1021 which was an appropriation for Workforce Safety and Insurance.

**Cindy Ternes, Director of Finance, Workforce Safety & Insurance (WSI)**

Testified in favor of HB 1021. Written attached testimony # 1.

(23:33)

**Chairman Holmberg:** It is seldom that this half of session that we have seen FTEs even in a budget, let alone added to a budget. You said this was a request. Was this a request of WSI that had been turned down in the executive budget? Or was this something that came up so recently that it wasn't part of that discussion.

**Cindy Ternes:** This was a request that was brought forth to House Appropriations and it was approved and is part of the engrossed House bill 1021.

**Chairman Holmberg:** Should it have been brought to OMB prior to the executive budget being commulgated and turned down?

**Cindy Ternes:** It was not looked at back in May 2008 at the time that we put the budget together. It was never denied but it had not been brought forth before the executive recommendation was completed.

**Senator Mathern:** Did you get a new boss today and who is it?



**Cindy Ternes:** We did get a new CEO today and I have no idea who it is.

**Senator Mathern:** On the dividends, with today's actuarial expertise, what would be the rationale for doing dividends versus just not charging as much in premiums?

**Cindy Ternes:** Working with our actuary the last couple years, Pacific Actuarial, the school of thought is that rates should be set at a level to cover claims whether there are dividends or not. The bulk of those dividends have resulted in a very successful investment portfolio. That can come or go which we have seen, until the level of the rates should cover the claims.

**V. Chair Grindberg:** Your attachment one, and whoever thought of that idea to give a summary of past legislative sessions and bills, only helps to bring a perspective, so I applaud you for that. But I'm looking under the 2009 legislative proposals and I know there are a couple Senate bills regarding payments to injured workers, and I don't see that listed here. Why wouldn't you have the rest of the bills on here?

**Cindy Ternes:** This is not an area I put together. Can you give me the bill?

**V. Chair Grindberg:** SB 2426 is one of those. And my 2<sup>nd</sup> question, we had testimony this morning on a bill about geo-thermal. I'd be curious to know what your per square foot heating and cooling costs are with the building you're in because I understand that's geo-thermal.

**Cindy Ternes:** I work closely with our facility management and it's his pride and joy. If anyone wants to come up and view it, he'll give you a pretty extensive tour, but I can get those costs for you.

**Chairman Holmberg** named the subcommittee: **Senator Wardner, Senator Krebsbach and Senator Lindaas.**

**Senator Mathern:** We appreciate your manner of testimony, but I'm wondering about attachment 1 – this is kind of an impressive list of positive things that have been done. What has happened that everyone sees it as so negative?

**Cindy Ternes:** There are always two sides to every story, but Workers Comp is a sensitive issue. I have been with workforce safety for two years and we have a very dedicated staff.

**Chairman Holmberg** closed the hearing on HB 1021.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1021

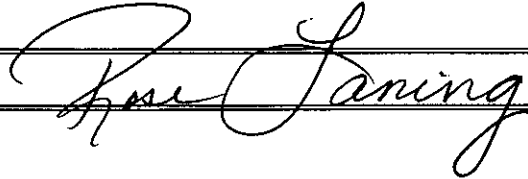
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11336

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened discussion on HB 1021 which was an appropriation for Workforce Safety and Insurance.

**Senator Wardner** handed out amendment .0201 and went over the parts and numbers of the amendment. When HB 1021 came from the House, they reduced the salary line item and the equity. They also put in the authority of the WSI to hire up to 10 FTEs and the funding that would go along with it, if WSI could not make a deal with Corvelle. Corvelle does case management for the department or agency with injured workers and helps them get back to work. The amendments restore funding for salaries and wages removed by the House to recognize anticipated savings from vacant positions and employee turnover.

**Senator Krauter:** Why are we restoring money if they continue to be vacant positions?

**Roxanne Woeste, Legislative Council:** That's the restore that you've been doing to all the other budgets. That's relating to the salary and the fund.

**Senator Krauter:** They all talk about vacant positions.

**Chairman Holmberg:** That's their roll-up language.

**Senator Wardner:** This amendment increases funding related to the reauthorization of funding for the agencies information technology transformation program by \$1 M. So this will change it from \$6 M to a little over \$7 M. Last session, we appropriated \$14 M for their Information

Technology Project. Well, it didn't get going. It was slow getting started. **Senator Robinson** and **Senator Krebsbach** were in on the meeting we had earlier to check on the progress.

They are finally getting it going. The company is getting reorganized and they are willing to put their resources together and get it done.

**Senator Robinson:** There were also other related technology concerns. I felt much better about it is the involvement of ITD and Lisa Heldner saying we are on board. It's moving forward, but progress is being made.

**Senator Krebsbach:** They took full responsibility for the delays and they offered to give free service for a certain period of time if there were any further delays.

**Senator Wardner:** They're putting some skin in the game. So that \$1 M dollars to change it from \$6 to \$7 M would be a draw on the \$14 M. It is not extra dollars. It's just taking it from next biennium and getting it in here so they can get done what they need to do. I guess that's all about that. The amendment also provides \$50,000 of special funds for costs associated with the study of post retirement benefits provided in 2009 which was in HB 1525 that we passed out of here the other day faster than you could say Jack Robinson.

There is one more thing about litigation expenses. Currently, when a worker or employee goes into litigation. They have authority to do that, but they do not have authorities to spend money when it comes to dealing with an employer or a provider. This amendment gives them authority, if they have to, to go into litigation with an employer or provider. There are employers out there that will have people working for them, but they say you're not working for me, you're working "with" me. Those people are not covered by WSI, but in reality they are working for that company. They run into those issues and may have to go into litigation.

**Senator Wardner moved Do Pass on .0201 amendment.**

**V. Chair Grindberg seconded.**

**Voice vote passed.**

**Senator Wardner moved Do Pass as Amended on HB 1021.**

**V. Chair Grindberg seconded.**

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1**

**Senator Wardner will carry the bill.**

*JB*  
3/20/09  
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1021

Page 1, line 2, remove the second "and"

Page 1, line 3, after "insurance" insert "; and to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to providing a continuing appropriation for litigation expenses relating to employer and medical provider issues"

Page 1, line 11, replace "169,392" with "2,281,450" and replace "53,410,547" with "55,522,605"

Page 1, after line 23, insert:

**"SECTION 3.** A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

**Litigation expenses - Continuing appropriation.** Money in the workforce safety and insurance fund is appropriated to the organization on a continuing basis for payment of organization expenses associated with litigating employer-related issues arising under this title and for payment of organization expenses associated with litigating medical provider-related issues identified under sections 65-02-23 and 65-02-20."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98021.0201 FN 1**

**A copy of the statement of purpose of amendment is attached.**

**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1021 - Workforce Safety and Insurance - Senate Action**

	<b>Executive Budget</b>	<b>House Version</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Workforce Safety and Insurance	\$54,455,605	\$54,765,547	\$2,112,058	\$56,877,605
Total all funds	\$54,455,605	\$54,765,547	\$2,112,058	\$56,877,605
Less estimated income	54,455,605	54,765,547	2,112,058	56,877,605
General fund	\$0	\$0	\$0	\$0
FTE	237.14	247.14	0.00	247.14

**Department No. 485 - Workforce Safety and Insurance - Detail of Senate Changes**

	<b>Restores Funding Relating to Anticipated Salary Savings<sup>1</sup></b>	<b>Increases Funding Relating to Information Technology Project<sup>2</sup></b>	<b>Provides Funding for Study of Post Retirement Benefits<sup>3</sup></b>	<b>Total Senate Changes</b>
Workforce Safety and Insurance	\$1,045,058	\$1,017,000	\$50,000	\$2,112,058
Total all funds	\$1,045,058	\$1,017,000	\$50,000	\$2,112,058
Less estimated income	1,045,058	1,017,000	50,000	2,112,058
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment restores funding for salaries and wages removed by the House to recognize anticipated savings from vacant positions and employee turnover.

<sup>2</sup> This amendment increases funding relating to the reauthorization of funding for the agency's information technology transformation program by \$1,017,000, from \$6,000,000 to \$7,017,000. The Legislative Assembly provided an appropriation of \$14 million for the project for the 2007-09 biennium. At the time the agency submitted its budget request, the agency estimated that \$8 million of the \$14 million would be spent during the 2007-09 biennium and \$6 million during the 2009-11 biennium. At the present time, the agency estimates \$6,983,000 will be spent for the project during the 2007-09 biennium and funding of \$7,017,000 will be needed for the 2009-11 biennium.

<sup>3</sup> This amendment provides funding of \$50,000 from special funds for costs associated with the study of postretirement benefits provided for in 2009 House Bill No. 1525.

This amendment also adds a section to create a new section to North Dakota Century Code Chapter 65-02 relating to providing a continuing appropriation for litigation expenses relating to employer and medical provider issues.

Date: 3-20-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0201 Amendment

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Wardner Seconded By Grindberg *voice vote*

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer			Senator Warner		
Senator Christmann			Senator Robinson		
Senator Krebsbach			Senator Krauter		
Senator Bowman			Senator Lindaas		
Senator Kilzer			Senator Mathern		
Senator Grindberg			Senator Seymour		
Senator Wardner					
Chairman Holmberg					

Total Yes 14 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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



Date: 3-20-09Roll Call Vote # 22009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1021Senate Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ AmendedMotion Made By Wardner Seconded By Grindberg

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	✓		Sen. Tim Mathern	✓	
Sen. Tony S. Grindberg, VCh	✓		Sen. Aaron Krauter	✓	
Sen. Bill Bowman, VCh	✓		Sen. Larry J. Robinson	✓	
Sen. Randel Christmann			Sen. John Warner	✓	
Sen. Rich Wardner	✓		Sen. Elroy N. Lindaas	✓	
Sen. Ralph L. Kilzer	✓		Sen. Tom Seymour	✓	
Sen. Tom Fischer	✓				
Sen. Karen K. Krebsbach	✓				

Total Yes 13 No 0Absent 1Floor Assignment Wardner

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

**REPORT OF STANDING COMMITTEE**

HB 1021, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1021 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "and"

Page 1, line 3, after "insurance" insert "; and to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to providing a continuing appropriation for litigation expenses relating to employer and medical provider issues"

Page 1, line 11, replace "169,392" with "2,281,450" and replace "53,410,547" with "55,522,605"

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Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98021.0201 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1021

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1021

House Appropriations Committee  
Education and Environment Division

☒ Check here for Conference Committee

Hearing Date: April 17, 2009

Recorder Job Number: 11930

Committee Clerk Signature

*Shirley Branning*

Minutes:

**Rep. Wald:** Called the Conference Committee to order to discuss HB 1021. I can speak for the House Members, we agree with the Senate Amendments with the exception of the equity dollars. I understand there is a bond being proposed of \$6M in General fund money and \$6M in Federal.

**Roxanne Woeste, Legislative Council Representative:** This budget has no equity dollars.

**Rep. Kroeber:** They have an area in their budget whereby they can handle that internally and didn't have to go to equity process. They have enough funds in that area that they could....

**Rep. Wald:** I asked John Halverson and Cindy from Workforce Safety and Insurance (WSI) about the \$50,000 post retirement benefits study. I questioned whether it will be done in house or outsourced. They said it will be outsourced. In view of HB 1525 that is something they have to do. So if there are no equity issues in this budget, what are your wishes?

**Rep. Klein:** Explanation on litigation expenses hasn't there been an appropriation. Do we have to do that every time? Is this a change from what we had?

**Senator Wardner:** It used to be that they could do litigation on clients and employees. This expands so they can also litigate as far as the employer and medical provider. They couldn't

do that before? There are issues for employers that need clarification, i.e. when you have a contractor who may be working FOR someone, that needs to be understood.

**Rep. Wald:** An independent contractor is an employer that hasn't been hurt yet.

**Rep. Klein:** On information technology transformation, they don't need part of it at this stage?

**Senator Wardner:** Last session we did appropriate \$14M for projects but it never got started. It has been split, \$6M and \$8M. It is going to require \$7M in this biennium.

**Rep. Wald:** It is a \$6M carryover, right?

**Senator Wardner:** It is really a \$14M carryover. The money is appropriated.

**Cindy Terns, Director of Finance for Workforce Safety and Insurance:** Regarding the ITTP fund, \$14M was appropriated last biennium. When we first submitted our budget we believed we would spend \$8M in the '07-'09 and asked that \$6M be reappropriated in the '09-'11 biennium. It is closer to a \$7M this biennium and \$7M next biennium.

**Rep. Kroeber:** Are you having better luck with your program than we are with ours?

**Terns:** We had a three month delay but has been addressed and we are on schedule.

**Rep. Kroeber:** Is it somewhat of a new off the shelf program that you modify or is it built from scratch?

**Ternes:** Customized off the shelf program, not nearly what our current system entails.

**Senator Wardner:** Move the following motion: **The House ACCEDE to the Senate Amendment.**

**Rep. Klein:** **Second.**

**Rep. Wald:** If there is no further discussion, a **Roll Call will be taken.**

**Vote Taken: Yes 6 No 0 Absent 0. Carrier: Senator Wardner and Rep. Wald.**

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1021 (, as (re)engrossed):

Date: 17 April 2009

Your Conference Committee Appropriations: Educ and Emier.

For the Senate:

attend

YES / NO

For the House:

attend

YES / NO

✓	Sen. Wardner	✓		✓	Rep. Wald	✓	
✓	Sen. Kriebach	✓		✓	Rep. Klein	✓	
✓	Sen. Landauer	✓		✓	Rep. Kroeber	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) HJ 1091-

✓ and place 1021 on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: April 17, 2009

CARRIER: Sen. Wardner  
Rep. Wald

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen. Wardner

SECONDED BY: Rep. Klein

VOTE COUNT 6 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1021, as engrossed:** Your conference committee (Sens. Wardner, Krebsbach, Lindaas and Reps. Wald, Klein, Kroeber) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1091 and place HB 1021 on the Seventh order.

Engrossed HB 1021 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

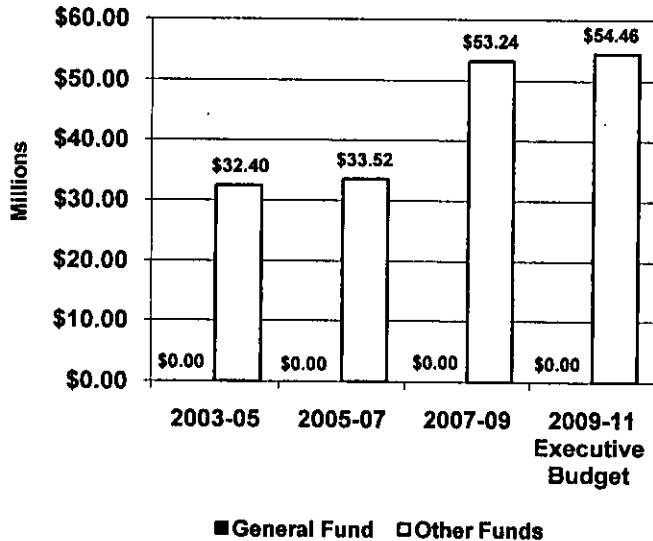
HB 1021



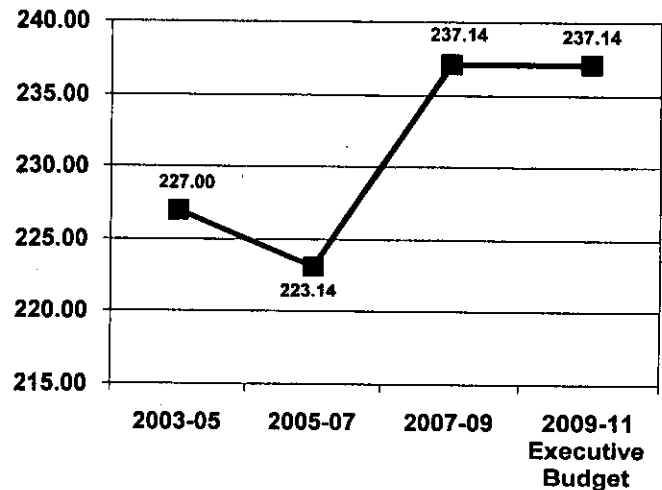
**Department 485 - Workforce Safety and Insurance**  
**House Bill No. 1021**

	FTE Positions	General Fund	Other Funds	Total
2009-11 Executive Budget	237.14	\$0	\$54,455,605	\$54,455,605
2007-09 Legislative Appropriations	237.14	0	53,241,155	53,241,155
Increase (Decrease)	0.00	\$0	\$1,214,450	\$1,214,450

**Agency Funding**



**FTE Positions**



**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Adjusts funding for operating expenses as follows:			
Travel		\$88,928	\$88,928
Supplies - Information technology software		(898,747)	(898,747)
Supply/material - Professional		(2,872)	(2,872)
Miscellaneous supplies		(53,420)	(53,420)
Postage		(42,226)	(42,226)
Printing		31,390	31,390
Information technology equipment under \$5,000		(107,850)	(107,850)
Rentals/leases - Building and land		87,423	87,423
Information technology - Data processing		72,000	72,000
Information technology - Communications		81,674	81,674
Information technology - Contractual services		(1,380,663)	(1,380,663)
Professional development		(791,226)	(791,226)
Operating fees and services		(22,412)	(22,412)
Fees - Professional services		608,932	608,932
Total		(\$2,329,069)	(\$2,329,069)
2. Removes capital asset funding provided for the 2007-09 biennium		(\$13,000)	(\$13,000)

**Continuing Appropriations**

**Building maintenance account** - North Dakota Century Code (NDCC) Section 65-02-05.1 - Money in the Workforce Safety and Insurance building maintenance account is appropriated on a continuing basis for bond principal and interest payments, operating, maintenance, repair, and payment in lieu of taxes expenses of the building and grounds.

**Reinsurance and other states' coverage** - NDCC Section 65-02-13.1 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis to allow the agency to establish a program of reinsurance and a program of extraterritorial coverage and other states' insurance.

**Allocated loss adjustment expenses** - NDCC Section 65-02-06.1 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis for the payment of all allocated loss adjustment expenses experienced by the agency.

**Preferred worker program** - NDCC Section 65-05-36 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis for the payment of any employment-related expenses for the preferred worker program.

**Performance evaluation** - NDCC Section 65-02-30 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis for the payment of the expense of conducting a biennial independent performance evaluation.

**Insurance fraud unit** - NDCC Section 65-02-23 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis for the payment of costs associated with identifying, preventing, and investigating employer or provider fraud.

**Information fund** - NDCC Section 65-01-13 - Money in the Workforce Safety and Insurance information fund is appropriated on a continuing basis for the payment of publication and statistical processing expenses incurred by the agency.

**Safety programs** - NDCC Section 65-03-04 - Money in the Workforce Safety and Insurance fund is appropriated on a continuing basis for the purpose of funding work safety and loss prevention programs.

**Educational revolving loan fund** - NDCC Section 65-05.1-08 - Money in the Workforce Safety and Insurance educational revolving loan fund is appropriated on a continuing basis to maintain the fund and provide loans to individuals wanting to pursue a postsecondary education.

### **Major Related Legislation**

**House Bill No. 1035 - Workforce Safety and Insurance reserve level** - This bill provides that the level of financial reserves plus available surplus of Workforce Safety and Insurance may not exceed 150 percent of the actuarially established discounted reserve. The bill excludes from the calculation of available surplus any funds designated or obligated to specific programs or projects pursuant to a directive or specific approval by the Legislative Assembly.

**House Bill No. 1036 - Workforce Safety and Insurance premiums** - This bill requires Workforce Safety and Insurance to establish premium rates annually on an actuarial basis. The statewide average premium rate level may not deviate by more than five percentage points from the recommended actuarial-indicated premium level for that year.

**House Bill No. 1037 - Workforce Safety and Insurance independent performance evaluation** - This bill requires that the biennial independent performance evaluation of Workforce Safety and Insurance address performance measurements, including a review of trends in workplace injuries; whether claims are being handled fairly and efficiently; whether claims or premium decisions have been subject to inappropriate political influence; whether work safety and loss prevention programs are effective in reducing claims and the severity of claims; whether injured employees, employers, and service providers are satisfied with the services of the organization; whether litigation rates and the number of contested claims are appropriate as compared with other workers' compensation programs or systems; and whether premiums are appropriate and reserve levels are adequate.

**House Bill No. 1160 - Workforce Safety and Insurance oversight** - This bill provides the Insurance Department regulatory oversight and examination authority over Workforce Safety and Insurance.

**House Bill No. 1201 - Workforce Safety and Insurance Office of Independent Review** - This bill changes the name of the Office of Independent Review to Decision Review Office.

**Senate Bill No. 2059 - Attorney's fees** - This bill provides for Workforce Safety and Insurance to pay an injured employee's attorney's fees and costs for a case review. The bill allows an injured employee who uses the services of the Office of Independent Review to be eligible for payment of \$500 for attorney's fees and \$150 for costs associated with an attorney consultation before an administrative hearing is held.

**2009 House Bill No. 1021**  
**Testimony before the House Appropriations Committee**  
**Presented by: Cindy Ternes, Director of Finance**  
**Workforce Safety & Insurance**  
**January 22, 2009**

Mr. Chairman and Members of the Committee:

Good afternoon. My name is Cindy Ternes and I am the Director of Finance at Workforce Safety & Insurance (WSI). I am here to testify in support of WSI's biennial appropriations bill –HB 1021. On behalf of WSI's Board of Directors and WSI's dedicated workforce, I would like to thank the Chairman and the Committee for providing the agency the opportunity to testify today.

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 loss, medical, and rehabilitation benefits to workers injured or to dependents of workers killed during the course of their employment. WSI does not receive general fund dollars. Instead, WSI collects premiums which provide for the payment of medical and wage loss benefits as well as administrative expenses.

WSI's main objective is to provide benefits and coverage to North Dakota's injured workers and employers. One of the goals of our testimony is to provide a clear picture of WSI accomplishments and ongoing improvements. Outlined below are six positive key performance indicators. You will see that North Dakota's workers' compensation system today is stable, continually improving, and overall functioning quite well.

- **Enhanced Benefit Structure.** As indicated in recent reviews, WSI's benefit structure compares quite favorably to most other jurisdictions and has continually been enhanced in past legislative sessions. WSI works with the Legislative Assembly, interim legislative committees, and other stakeholders to identify appropriate benefit enhancements. **Attachment 1** contains a detailed listing of legislative benefit increases passed by the 1997-2007 Legislative Assemblies as well as current WSI benefit proposals being submitted for consideration to the 2009 Legislative Assembly.
- **Less Adversarial.** The system today is much less adversarial. The numbers of injured worker disputes are at record lows compared to the highly litigious system that existed more than a decade ago. Litigation requests are down nearly 88 percent from 14 years ago and currently represent less than 1% of claims filed. Constituent requests for assistance from public officials such as legislators, the governor's office, and North Dakota's congressional delegation are down nearly 70 percent when compared to more than a decade ago.

- **Improved Service and Overall Customer Satisfaction.** As indicated by recent independent reviews, claims processing and overall claims management has improved significantly from prior years. Periodic injured worker and employer customer satisfaction surveys independently conducted for WSI consistently rank in the "high" satisfaction category.
- **Less Severe Injuries.** Investments in safety combined with employer and employee participation in safety incentive programs have led to significant and continued declines in severe injury rates. Severe injury rates have declined by 47% since 1995.
- **Financial Stability.** The workers compensation system today is financially stable with an adequate surplus compared to a nearly quarter billion dollar deficit position more than a decade ago. With the recent collapse of the financial markets the fund has taken a hit, however, due to its conservative investment allocation, its losses are not nearly to the degree of other similarly situated funds. The WSI fund is still in a surplus position and within the range as required by statute. Premium dividend credits declared by WSI's Board of Directors in each of the last four years have been 40%, 40%, 50%, and 62%, respectively. This equates to an estimated \$274 million in aggregate credits to North Dakota businesses. A financially sound fund benefits both injured workers and business.
- **Premium Stability.** The workers compensation system today has maintained premium stability compared to a volatile rating environment that existed more than a decade ago. A national study conducted annually continually cites North Dakota as the lowest workers' compensation premium state. Low rates are a terrific economical driver for promoting business. In the current global economic situation, businesses need to capitalize on every possible opportunity, to keep our businesses thriving and our citizens employed.

WSI is committed to delivering and continually improving the services and advancements to North Dakota's workforce that they expect and deserve. The organization submits 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 but not at the expense of efficiency or effectiveness. WSI will remain efficient and effective: efficient in managing our organization's use of premium dollars to maintain financial stability; and, effective in professionally providing quality services to injured workers and employers.

Presented for your consideration is WSI's administrative budget request of \$54,455,605 for the 2009-2011 biennium, an increase of 2.2% from the previous biennium. A brief explanation of each of the categories is as follows:

## 2009-2011 Appropriation Request

	Current Appropriation 2007-2009	Executive Recommendation 2009-2011	Amount of Change from 2007-2009	Percent Change from 2007-2009
Salaries, Wages & Benefits	31,311,328	34,835,270	3,523,942	11.3%
Operating Expense	7,949,406	13,620,335	5,670,929	71.3%
ITTP Program	14,000,000	6,000,000	-8,000,000	-57.1%
Capital Assets	13,000	0	-13,000	-100.0%
Agency Appropriation	53,273,734	54,455,605	1,181,871	2.2%
FTEs	237.14	237.14	0	0%

**Salaries, Wages & Benefits.** The proposal provides a \$3.5 million or 11.3% increase from the 2007-2009 biennium. The \$3.5 million includes the statewide increases of 5% and 5% as the Governor's office has recommended, as well as the expected increases in health insurance and a limited amount of equity dollars.

**Operating Expense.** The proposal provides a \$5.7 million or 71% increase from the 2007-09 biennium. Much of this increase relates to funding additional Information Technology (IT) projects, increased consultant costs, and future strategic initiatives. Some of the major items include:

- Additional IT Projects
  - Web Portal, Claims Back-Scanning, FileNet Phase II, and Intranet Replacement.
- Increased consultant costs
  - Actuarial, Audit, Benchmarking, Reviews, Strategic Planning, and Customer Surveys.
- Future Strategic and Other Initiatives
  - Monograph Services, Provider Relations Initiative, and Professional Development.

You may recall WSI received an appropriation of \$14,000,000 in the 2007-2009 biennium for its major computer system replacement project, also known as WSI's Information Technology Transformation Program (ITTP). This program has been a cooperative effort with the state Information Technology Department (ITD) and is well underway. Completion is planned for the 2009-2011 biennium. WSI estimates \$8,000,000 of the original \$14,000,000 appropriation will be spent in the current biennium; and the remaining \$6,000,000 will be expended during the 2009-2011 biennium, due to timing of the project. WSI has taken precautions to ensure that \$6,000,000 is not being expended in the current biennium and is requesting it be re-appropriated as part of the 2009-2011 budget appropriation request.

**Capital Assets** are an insignificant part of WSI's appropriation. WSI is not budgeting any capital assets for the 2009-11 biennium.

**FTEs** - WSI currently has an appropriation of 237.14 FTEs and, outside of the discretionary authority outlined in the attached proposed amendment, WSI is not requesting additional FTEs for the 2009-11 biennium.

**Amendment for discretionary FTEs for Vocational Rehabilitation Services (Attachment 2)** - WSI is requesting discretionary authority to hire up to ten full-time equivalent employee positions and related funding (\$1,355,000) to provide vocational rehabilitation services should it be determined that it would be more efficient and cost-effective to do so. WSI currently contracts with a rehabilitation vendor to provide these services. The existing vendor has rehabilitation consultants located regionally throughout the state that work with injured workers throughout the vocational rehabilitation process. WSI periodically issues requests for proposals and competitively bids for these services. Only one bid was received during the last procurement process. The intent of this amendment is to ensure a fallback mechanism exists in the event there is a limited response to future procurements for vocational rehabilitation services or vendor negotiations prove unsatisfactory to WSI. **Attachment 3 contains estimated biennial funding for 10 discretionary FTEs.**

Thank you again for your time today and your consideration of WSI's biennial appropriation request and proposed amendment. At this time, I and members of WSI staff would be glad to answer any questions you may have.

**Workers Compensation Legislation—Historical Benefit Enhancements and Current Proposals****2009 Legislative Proposals**

- Provides for payment of eyeglasses and other devices if an injury occurs and damages those prescriptive devices (HB 1061)
- Provides for an extension of an additional 20 weeks to the current 104-week limit for retraining programs (HB 1062)
- Increases the eligibility pool for job search benefits (HB 1062)
- Establishes pilot program to assess new methods of providing rehabilitation services (HB 1062)
- Shortens eligibility period for cost of living adjustments (COLAs) for pre-1/1/06 total disability claims from 7 to 3 years (HB 1064)
- Expands COLA eligibility for pre-1/1/06 claims to include both permanent total and temporary total benefit recipients (HB 1064)
- Increases the maximum disability benefit from 110% to 125% of the state's average weekly wage (SAWW) (HB 1101)
- Increases lifetime cap on death benefits from \$250,000 to \$300,000 (HB 1101)
- Increases burial expense from \$6,500 to \$10,000 and one-time payments for spouses and dependent children (HB 1101)
- Increases the dependency allowance from \$10 to \$15 per week per child (HB 1101)
- Increases pre-acceptance disability benefits from the minimum benefit rate to the standard rate (HB 1101)
- Increases travel and other personal reimbursements on aggravation claims to 100% (HB 1101)
- Resolution to study workers' compensation laws regarding pre-existing injuries (HCR 3008)

**2007 Legislation**

- Provided funds for the purchase or adaptation of motor vehicles for the catastrophically injured (HB 1038)
- Provided increased post-retirement additional benefits for certain injured workers (HB 1038)
- Expanded the population that is eligible for death benefits (HB 1038)
- Shortened eligibility period for cost of living adjustments (COLAs) from seven years to three years (HB 1038)
- Expanded the eligibility pool for WSI's revolving loan fund (HB 1038)
- Provided inflation adjustment for long-term Temporary Partial Disability benefit recipients (HB 1140)
- Provided funds for the purchase or adaptation of motor vehicles for catastrophic and exceptional circumstance claims (HB 1411)
- Provided benefits for firefighters and law enforcement officers in the event of a false positive test (SB 2042)

**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 an injured worker educational revolving loan fund (HB 1491)
- Increased the non-dependency death award (HB 1506)
- Increased post-retirement additional benefit payments (SB 2351)

**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)

**2001 Legislation**

- Increased certain permanent partial impairment awards (HB 1161)

**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)

**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)

**ATTACHMENT 2: HB 1021 AMENDMENT**

**SECTION 2. WORKFORCE SAFETY AND INSURANCE FULL-TIME EQUIVALENT EMPLOYEE POSITIONS AUTHORIZATION – APPROPRIATION.** The director of workforce safety and insurance may authorize hiring, upon a determination that employees are needed to facilitate the economic and efficient administration of the organization's vocational rehabilitation program, up to ten full-time equivalent employee positions in addition to the full-time equivalent employee positions authorized in section 1 of this Act for the biennium beginning July 1, 2009, and ending June 30, 2011. There is appropriated out of any moneys in the workers' compensation fund, not otherwise appropriated, the sum of \$1,355,000, or so much of the sum as may be necessary, to workforce safety and insurance for the purpose of providing wages, salaries, and benefits for any additional full-time equivalent positions authorized under this section.



385 - Workforce Safety and Insurance  
Projected Cost of 10 New RTW FTEs

ATTACHMENT 3

		Salary and Wages				Operating Expenses																					
		Monthly		Proposed		w/1st yr		Fringes		Total		Travel		Misc. Supplies		IT Equip. < \$5,000		Office Equipment		IT Comm		Prof. Dev.		Total		Grand Total	
		Base		Salary		Increase																					
Bismarck	Return To Work	1.00	\$4,115	\$98,760	\$101,229	\$87,576	\$31,613	\$137,770	\$5,250	\$500	\$1,750	\$1,000	\$840	\$1,975	\$11,315	\$149,085											
	Voc Rehab Consultant Supervisor	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Bismarck	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Bismarck	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Fargo	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Fargo	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Fargo	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Dickinson	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Dickinson	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
Jamestown	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
G. Forks	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408												
G. Forks	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	8,000	\$840	\$1,709	20,219	139,408												
Minot	Voc Rehab Consultant	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	8,000	\$840	\$1,709	20,219	139,408												
Total		10.00		\$867,720	\$889,413	\$321,056	\$1,210,469	\$72,030	\$5,000	\$17,500	\$24,000	\$8,400	\$17,354	\$144,284	\$1,354,754												

7.

## **2009 Legislative Testimony**

1. Hoped to be done, persuaded to stay for part of session
2. People ask me two questions
  - a. Why did you take the job?
  - b. What is it really like at WSI?
    - i. Good people – ND, Work ethic
    - ii. Good morale – surprisingly good
    - iii. Good decisions based on what law allows
    - iv. Good results
3. Things are going well.  
Doing things efficiently – doing things right  
Doing things effectively – doing right things
  - a. Total claims at 21,000
  - b. Claims paid are at 93%
  - c. % adjudicated within 14 days of completion – 87%
  - d. Claims / 100 workers continues to decrease – 6.34
  - e. % of 3 point contact within 24 hours – 92%  
Wage loss claims only
  - f. Pending claims over 31 days – 9%
  - g. Two new claims units to facilitate processing
  - h. Attrition down 16% → 5%
  - i. Medical bills from 90 days to 21 days
  - j. FY08 historic lows for OIR and hearing requests  
356/160
4. Talked with many IW who indicate great satisfaction  
Talked with some IW who indicate great dissatisfaction
  - a. Good News – Cont. Jurisdiction - 250,000 claim pool  
~500 responded .2%
  - b. Bad News – 500 unsatisfied claims, some tragic  
Injury not occurring while working  
Pre-existing conditions  
Degenerative body parts  
Resist rehabilitation requirements

5. WSI is not a health insurance system  
WSI is not a car insurance system  
WSI is not a retirement system
  - a. We compensate for injuries received while working
  - b. We ask basic questions
    - i. Did injury occur while working?  
Ex: Hurt while on break doesn't qualify  
"In and out of course of employment"  
Precipitated by work, not coincidental to work
    - ii. Was it a pre-existing condition?  
Did injury "substantially worsen or accelerate?"  
Some think this should no make any difference
    - iii. Was it caused by degeneration of body?  
Caused by work? Consider extent of injury.  
Some think this is in part caused by work
    - iv. Perhaps some or all these situations should be covered, but not allowed by current law.
6. Fundamental Issue – WSI is hybrid system – 95, 97 Sessions
  - a. Private business – Do our own thing
  - b. State agency – Legislature makes the rules
  - c. Initiated Measure #4 makes us more of a state agency

## 7. Changes & Successes

### MAJOR IMPACT

Calmness/Stability

Attitudes/Morale Up

Structural Change = \$500 annual savings

Executive – top heavy

Employer Services - safety

Shifted resources to 1<sup>st</sup> line  
Replace long-term temps

#### Other Personnel

Acting Managers returned to regular jobs or made permanent  
New HR Director  
New Internal Audit Manager  
New Internal Auditor  
2 Additional Claims Supervisors – Marsh Review  
2 New Claims Units – Facilitate claim processing  
88% staffed → nearly full-staffed  
Attrition rate 16% → 5%

#### Relationships/Contacts

All stakeholders  
Business  
Labor  
Healthcare  
Staff  
Board of Directors  
Legislature  
Citizens  
OAH – move hearing officers  
Auditor  
Labor/Unions

#### Openness/Transparency

Media, editorial boards  
Staff  
Open records – reduction in cost by 50%

#### Renewed Safety Emphasis

Motto - “Putting Safety to Work”  
Mission Statement  
New Safety Incentive program – 1/01/09  
Safety Consultants – 12 + 2 supervisors  
New Safety Grant Program  
WIRC Level 1 – Smaller policyholders – 11/1/08  
47/59 applications approved, ~\$500K  
WIRC Level 2 – Larger policyholders – 1/01/09

STEP – Associations  
Ergonomic Initiative – 25% of all claims in last 5 years – 1/01/09

Audits

Conolly Report – Responses 80% implemented  
Marsh Report – Responses 75% implemented  
“12 claims” status satisfactory  
BDMP Performance Evaluation – very successful  
SAO 2006 Performance Audit follow-up – mostly successful  
2008 Financial Audit – very successful  
12/31/08 deadline for pre-2008 recommendations  
6/30/09 deadline for 2008 recommendations

Information technology direction

COTS vs. Custom  
ITD Waiver

**SMALLER CHANGES**

Benefit enhancements – 2009 legislative proposals  
Board Governance Transformation  
Risk Assessment  
Make WSI a model workplace  
Fewer meetings/fewer group decisions - empowerment

**CHALLENGES**

OIR – Office of Ind. Review  
IME – Ind. Medical Examination  
RTW – Return To Work  
Hardship cases  
Managed Care

## **CONCLUSIONS**

We've done a lot but more remains to be accomplished.  
We all must work together to achieve success

Must manage policies/procedures determined by Leg.

Fair – reasonable, just, well-intended

Uniform – All treated equally

Consistent – Same/similar results across the organization

Must improve our external communication, particularly public

Must educate stakeholders, particularly IW

Must be responsive to stakeholders

Must narrow the “expectation gap”

Gap in the expectations of business and labor

Must measure what matters – Indicators of Success

## **THANK YOU**

## **CLAIM FILE BACK SCANNING PROJECT**

### **PROJECT DESCRIPTION**

To back scan Claim files as a continuance of file retention. Implementation is scheduled for after PHS files are completed, with a possible start time of September or October 2009.

### **BUSINESS NEED/PROBLEM**

The back scanning of Claim files is necessary for file retention. Currently, claim document imaging is performed on correspondence, medical records, or other documents are received. All claims filed after Jan 1, 1995 are available in electronic form only. To date, over twelve million documents have been scanned and are available in electronic format.

### **SOLUTION**

Enhance current scanning/indexing applications to accommodate Claim adjustors.

### **ANTICIPATED BENEFITS**

The anticipated benefits include:

- Availability/accessibility of documentation.
- Decrease amount of physical storage space required to house files, both on and off site.
- Document protection due to daily back up of data.
- Will provide for greater efficiency for Injury Services.

### **COST ESTIMATE**

While it is difficult to discern the actual cost of this project, a preliminary estimate of \$350,000.00 has been established. The current plan involves completing the scanning of current active claim files and older files as deemed appropriate.

WSI had over 400,000 claims filed before 1995 of which 1,110 are currently active and are partially scanned. While it is unknown when a closed file may be re-opened, it is in WSI's best interest to ensure the information in these files is available. Many files contain medical and other information that is no longer available from any other source.

Costs already incurred for PHS file backscanning:

- Workstations – \$5,000.00
- FileNet Lic. – \$51,000.00
- System hardware (+ installation) – \$20,000.00
- Scanner (2) – \$14,000.00
- PC (12) – \$9,000.00
- Printer – \$ 5,000.00
- Monitor (12) – \$3,600.00

Additional costs to backscan Claim files include:

- Temps – \$280,350.00
- Temp Fringe - \$34,650.00
- Sub Total – \$315,000.00
- 10% contingency – \$31,500.00
- **Total budget – \$350,000.00**

## WSI Fee Schedule Comparison Summary

Comparison of North Dakota healthcare payers as of May 30, 2008. Completed by North Dakota Workforce Safety & Insurance's provider fee schedule consultant.

### PHYSICIAN SERVICES

Payer	Conversion Factor	WSI as a Percent of Payer	Estimated Market Share
Medicare/Medicaid	\$34.28	175.0%	37%
BCBSND	\$54.80	109.5%	35%
WSI	\$60.00	-	2%
Other (approximate)	\$67.68	88.7%	26%

### INPATIENT HOSPITAL SERVICES

Payer	Base Rate	WSI as a Percent of Payer	Estimated Market Share
Medicare/Medicaid	\$4,613.55	152.6%	62%
BCBSND	\$7,905.00	89.1%	22%
WSI	\$7,041.76	-	<2%
Other (approximate)	\$12,426.63	56.7%	15%

### OUTPATIENT HOSPITAL SERVICES

Payer	Conversion Factor	WSI as a Percent of Payer	Estimated Market Share
Medicare/Medicaid	\$55.83	188.3%	62%
BCBSND	N/A	116.0%	22%
WSI	\$105.10	-	<2%
Other (approximate)	\$137.08	76.7%	15%

### COMBINED HOSPITAL SERVICES

Payer	WSI as a Percent of Payer	Estimated Market Share
Medicare/Medicaid	167.2%	62%
BCBSND	100.2%	22%
WSI	-	<2%
Other (approximate)	64.9%	15%

BCBSND payment amounts are proprietary. In addition, BCBSND has the ability to negotiate separate or different payment amounts with each hospital. BCBSND outpatient hospital payment amounts are not based solely on the Ambulatory Payment Classification (APC) methodology. Therefore, there is no good method of determining the level of their payments in relation to the level of WSI payments without obtaining payment information from them, on a service by service basis.



In 2006, Milliman did a study for the North Dakota Department of Human Services comparing North Dakota Medicaid program payments with payments for similar services by Medicaid programs in the surrounding states. The study also compared the North Dakota Medicaid payments to Medicare, BCBSND and WSI. The study was based on claims paid in 2005. A comparison of the differences between WSI payments, in relation to ND Medicaid payments, and BCBSND payments, in relation to ND Medicaid payments was completed. In the study, the differences for inpatient hospital payments were very similar to the differences noted above, indicating that BCBSND paid higher for similar inpatient services than did WSI.

For physician services, the results of the Milliman study also tracked the actual differences in payments between WSI and BCBSND that were in effect at that time. In other words, in 2005 BCBSND paid higher for physician services than did WSI. Given that the Milliman study seemed to be fairly accurate in its assessment of inpatient hospital services and physician services, this contractor reviewed the payment differences in outpatient hospital services. For outpatient hospital services, the study indicated that WSI paid significantly higher amounts for outpatient hospital services than did BCBSND. Based on the study, WSI was paying approximately 16 percent above BCBSND for similar services (in 2005).

Based on anecdotal comments from many hospitals and presentations made by BCBSND staff, contractor believes the following:

- The payment differences noted in the Milliman study generally reflect actual differences between BCBSND and WSI payments for outpatient hospital services. As a result, WSI generally pays higher for these services than does BCBSND.
- There has not been a significant change in the differences between WSI outpatient hospital payments and BCBSND outpatient hospital payments since 2005.
- BCBSND generally uses a uniform payment amount for the large hospitals in the state and pays the small rural hospitals at 120% of that amount. In addition, while BCBSND has the ability to negotiate separate payment amounts with individual hospitals; contractor does not believe that it is common practice for them to do so.

## **WSI 2009 FEE SCHEDULE CHANGES**

### **Inpatient Hospital**

- Market Basket base rate increased by 3.39% to \$7,280.48.
- Additional WSI increase of 3.02% for the base rate to be \$7,500.00.

### **Outpatient Hospital**

- Conversion factor increased by 3.6% to \$108.88.

### **Ambulance**

- An increase of 5.0%.

**Ambulatory Surgical Center**

- Fee schedule has been updated based on the Market Basket for hospital services with adjustments for anticipated APC weight changes.
- Conversion factor increased by 3.6% to \$81.82.

**Anesthesia**

- Conversion factor is \$52.00.
- When a Medical Doctor of Anesthesia (MDA) or a Certified Registered Nurse Anesthetists (CRNA) personally performs a case, the full case payment is made to that provider.
- When a CRNA performs a case under the medical direction of a MDA, both the CRNA and MDA is paid for 50% of the per case amount .

**Dental**

- Fee schedule for 2009 has been changed to reflect a consistent payment for providers in all locations.

**Home Health**

- Fee schedule has been updated based on the Market Basket for Home Health services, with an increase of 2.9% rounded to the nearest 50 cents.

**Medicine**

- Includes fee schedules for Chiropractic, Evaluation & Managment, Pathology, Medicine, PT and OT, Radiology and Surgery codes.
- New CPT code changes from the American Medical Association (AMA) have been adopted.
- Relative Value Unit weights have been adopted.
- Conversion factor increased by 1.6% to \$60.96.
- Conversion factor for professionally billed radiology services is \$68.94.

**Clinic Laboratory**

- 250% of North Dakota's Medicare Laboratory fee schedule.

**Durable Medical Equipment**

- 120% of North Dakota's Medicare schedule.

**From:** Ternes, Cindy G.  
**Sent:** Wednesday, September 24, 2008 4:09 PM  
**To:** Deis, Sandy K.  
**Cc:** Fleckenstein, Aimee R.; Halvorson, John L.  
**Subject:** RE: Salaries  
Sandy,

Equity 1 = \$500,000 in equity adjustments for the 09-11 biennium, with \$125,000 related fringe and the \$90,000 workers compensation premium as we discussed.

Equity 2 – 5 = Performance Increases for four divisions. If you remove Equity 2 – 5, less the \$250,000 allocated for FY 09, you will have removed the Performance Increases for the 2009-11 biennium.

Let me know if you have questions. Thank you!

---

**From:** Deis, Sandy K.  
**Sent:** Wednesday, September 24, 2008 9:20 AM  
**To:** Ternes, Cindy G.  
**Subject:** Salaries

Hi Cindy,

I ran the CR01 salary report by reporting level and found the following amounts noted as "Equity Increases".

Equity 1 \$715,000

Equity 2 \$271,277

Equity 3 \$266,433

Equity 4 \$247,898

Equity 5 \$535,588

Total \$2,036,196

Please review. We need to make certain the individual employee salaries included in the pay plan are the June 30, 2009 base salary amounts. The executive recommendation will be calculated on these amounts.

Off to a meeting. I can talk later.  
Sandy

### **Pharmacy Monograph Service**

The pharmacy monograph service is a contracted service that will be used by WSI's Pharmacy and Therapeutics (P&T) Committee to assist in making recommendations to the agency on which medications should be on WSI's drug formulary. The P&T Committee consists of three pharmacists and three physicians and the committee meets quarterly.

The monograph service consists of medication class reviews and more specific medication reviews. The medication class reviews are a comparison of all of the medications within a specific class of medications (e.g. statin drugs used to treat high cholesterol). A complete review of the medical literature is conducted to determine how the medications compare with regard to their safety, effectiveness, uniqueness, and cost. That information is used by the P&T committee, along with our own usage trends to make recommendations to the agency on which medications should be contained on the formulary, which medications require prior authorization before use, and which medications should not be covered due to significant concerns regarding the safety, effectiveness, or cost of the medication.

The specific medication reviews are similar to the class reviews but are used when a new medication comes onto the market. Oftentimes, the medication is the first medication in a class and the comparison is made against the gold standard of therapy in another medication class used to treat that same condition. The same process is used to compare safety, effectiveness, uniqueness, and cost.

The amount of medical information that is being published is overwhelming for any individual practitioner to keep abreast of. The monograph service would provide information to the committee members in a thorough, unbiased manner.

**From:** Deis, Sandy K.  
**Sent:** Monday, September 29, 2008 12:48 PM  
**To:** Ternes, Cindy G.  
**Cc:** Halvorson, John L.; Furness, Bruce W.; Fleckenstein, Aimee R.  
**Subject:** RE: Budget Resubmission

Hi Cindy,

Your statements are correct. The Workforce Safety & Ins. budget request will be increased by the executive recommendation for salary increases for the 09-11 biennium. The associated fringe benefits will also be increased, including the new Blue Cross/Blue Shield premiums for the 09-11 biennium.

I will re-submit your budget based using the A20 version.

Thanks.

Sandy

**From:** Ternes, Cindy G.  
**Sent:** Monday, September 29, 2008 12:42 PM  
**To:** Deis, Sandy K.  
**Cc:** Halvorson, John L.; Furness, Bruce W.; Fleckenstein, Aimee R.  
**Subject:** RE: Budget Resubmission

Sandy,

Yes, this is agreeable with the understanding that this amount does not include any performance increases or fringe benefit increases for the 09-11 biennium. My understanding is these increases will be added onto the 09-11 budget when they are known. Again, thank you for all your help.

Cindy T

**From:** Deis, Sandy K.  
**Sent:** Monday, September 29, 2008 11:27 AM  
**To:** Ternes, Cindy G.  
**Subject:** Budget Resubmission

Hi Cindy,

Here are the numbers from A20 version which, with your permission, will be used to resubmit the Workforce Safety & Insurance budget:

2009-11 Salaries Permanent -	\$23,818,042
Temp Salaries	194,304
Fringe Benefits	7,748,109
Total Salaries	31,760,455

There will be no salary budget changes because it is all related to your cost-to-continue, not an additional salary increase.

Total budget request for 09-11 is \$51,380,790.

If this is okay, just let me know.

Sandy Deis, OMB

## County of Burleigh

221 NORTH 5TH STREET • P.O. BOX 5518 • BISMARCK, NORTH DAKOTA 58506-5518

## 2008 REAL ESTATE TAX IN-LIEU-OF STATEMENT

TO: ND WORKERS COMPENSATION BUILDING  
ATTENTION: DAVE SANDY  
P O BOX 5585  
BISMARCK ND 58506-5585

FROM: BURLEIGH COUNTY AUDITOR/TREASURER  
P O BOX 5518  
BISMARCK ND 58506-5518

Enclosed is your bill for the In Lieu Of Tax Payment for the following property #1225-001-100

**Amount due with discount: \$247,355.75**

*Following are the calculations:*

<i>Assessed value</i>	<i>6,499,450.</i>
<i>Commercial property</i>	<i>x 10%</i>
<i>Mill levy (2008)</i>	<i>x .40061</i>
	<i>260,374.47</i>
<i>5% discount</i>	<i>13,018.72</i>
<i>Amount due by 2/15/09</i>	<i>\$247,355.75</i>

If you should have any questions you may call me at 222-6697.

Thank you,

*Beverly Bettenhausen*  
*Rep. and Treasurer*

DEC 15 2008

2009 Engrossed House Bill No. 1021  
Testimony before the Senate Appropriations Committee  
Presented by: Cindy Ternes, Director of Finance  
Workforce Safety & Insurance  
March 6, 2009

Mr. Chairman and Members of the Committee:

My name is Cindy Ternes and I am the Director of Finance at Workforce Safety & Insurance (WSI). I am here to testify in support of WSI's biennial appropriations bill –Engrossed HB 1021. On behalf of WSI's Board of Directors and WSI's dedicated workforce, I would like to thank the Chairman and the Committee for providing the agency the opportunity to testify today.

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 loss, medical, and rehabilitation benefits to workers injured or to dependents of workers killed during the course of their employment. WSI does not receive general fund dollars. Instead, WSI collects premiums which provide for the payment of medical and wage loss benefits as well as administrative expenses.

WSI's main objective is to provide benefits and coverage to North Dakota's injured workers and employers. One of the goals of my testimony is to provide a clear picture of WSI accomplishments and ongoing improvements. Outlined below are six positive key performance indicators. You will see that North Dakota's workers' compensation system today is stable, continually improving, and overall functioning quite well.

- **Enhanced Benefit Structure.** As indicated in recent reviews, WSI's benefit structure compares quite favorably to most other jurisdictions and has continually been enhanced in past legislative sessions. WSI works with the Legislative Assembly, interim legislative committees, and other stakeholders to identify appropriate benefit enhancements. **Attachment 1** contains a detailed listing of legislative benefit increases passed by the 1997-2007 Legislative Assemblies as well as current WSI benefit proposals being submitted for consideration to the 2009 Legislative Assembly.
- **Less Adversarial.** Today's system is much less adversarial. The number of injured worker disputes are at record lows compared to the highly litigious system that existed more than a decade ago. Litigation requests are down nearly 88 percent from 14 years ago and currently represent less than 1% of claims filed. Constituent requests for assistance from public officials such as legislators, the governor's office, and North Dakota's congressional delegation are down nearly 70 percent when compared to more than a decade ago.

- **Improved Service and Overall Customer Satisfaction.** As indicated by recent independent reviews, claims processing and overall claims management has improved significantly from prior years. Periodic injured worker and employer customer satisfaction surveys independently conducted for WSI consistently rank in the "high" satisfaction category.
- **Less Severe Injuries.** Investments in safety combined with employer and employee participation in safety incentive programs have led to significant and continued declines in severe injury rates. Severe injury rates have declined by 47% since 1995.
- **Financial Stability.** The workers compensation system today is financially stable with an adequate surplus compared to a nearly quarter billion dollar deficit position more than a decade ago. With the recent collapse of the financial markets the fund has taken a hit, however, due to its conservative investment allocation, its losses are not nearly to the degree of other similarly situated funds. The WSI fund is still in a surplus position and within the range required by statute. Premium dividend credits declared by WSI's Board of Directors in each of the last four years have been 40%, 40%, 50%, and 62%, respectively. This equates to an estimated \$274 million in aggregate credits to North Dakota businesses. A financially sound fund benefits both injured workers and business.
- **Premium Stability.** The workers compensation system today has maintained premium stability compared to a volatile rating environment that existed more than a decade ago. A national study conducted annually continually cites North Dakota as the lowest workers' compensation premium state. Low rates are a terrific economical driver for promoting business. In the current global economic situation, businesses need to capitalize on every possible opportunity, to keep North Dakota businesses thriving and our citizens employed.

WSI is committed to delivering and continually improving the services and advancements to North Dakota's workforce that they expect and deserve. The organization submits 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 but not at the expense of efficiency or effectiveness. WSI will remain efficient and effective: efficient in managing our organization's use of premium dollars to maintain financial stability; and, effective in professionally providing quality services to injured workers and employers.

Presented for your consideration is WSI's administrative budget request represented by Engrossed HB 1021 of \$54,765,547. WSI is requesting additional adjustments today, as outlined in the proposed Amendment. I will explain these proposed amendments in detail shortly.



## 2009-2011 Appropriation Request

**TABLE 1**

	Current Appropriation 2007-2009	Executive Recommendation 2009-2011	House Changes 2009-2011	Engrossed House Bill 1021
Salaries, Wages & Benefits	31,311,328	34,835,270	<sup>1</sup> -1,045,058	33,790,212
Operating Expense	7,949,406	13,620,335		13,620,335
ITTP Program	14,000,000	6,000,000		6,000,000
Capital Assets	13,000			
Agency Appropriation	53,273,734	54,455,605	-1,045,058	53,410,547
House Action Discretionary Funding			<sup>2</sup> 1,355,000	1,355,000
	53,273,734	54,455,605		54,765,547
Current FTEs	237.14	237.14		237.14
Discretionary FTEs			10.00	10.00
Total FTEs	237.14	237.14	10.00	247.14

<sup>1</sup> Amendment reduces salaries and wages funding by three percent to recognize anticipated savings from vacant positions and employee turnover.

<sup>2</sup> Amendment allows WSI director to hire up to 10 additional FTE positions upon determining employees are needed to facilitate the economic and efficient administration of the agency's vocational rehabilitation program and provides a \$1,355,000 special funds appropriation for the additional FTE positions.

**TABLE 2**

	Engrossed HB 1021	WSI Amendment 1	WSI Amendment 2	WSI Senate Request
Salaries, Wages & Benefits	33,790,212	<sup>3</sup> 1,045,058		34,835,270
Operating Expense	13,620,335			13,620,335
ITTP Program	6,000,000		<sup>4</sup> 1,017,000	7,017,000
Capital Assets				
Agency Appropriation	53,410,547	1,045,058	1,017,000	55,472,605
Discretionary Funding	1,355,000			1,355,000
Totals	54,765,547	1,045,058	1,017,000	56,827,605
Current FTEs	237.14			237.14
Discretionary FTEs	10.00			10.00
Total FTEs	247.14			247.14

<sup>3</sup> WSI proposed amendments reinstate salary funding to the level of the Executive budget recommendation.

<sup>4</sup> WSI proposed amendments rebalance the ITTP funding between the 2007-09 and 2009-11 biennium as explained in the narrative.

The worksheet on top of page 3 (Table 1) gives us a snapshot of the current 2007-09 biennium in the first column with a total appropriation of \$53.3 million. The second column provides the Executive Recommendation for the 2009-11 biennium with a total appropriation of \$54.5 million. The third column details changes that occurred in the House and the 4<sup>th</sup> column gives us the summary of Engrossed HB 1021 in its current form, with a total appropriation of \$54.8 million.

The worksheet located on the bottom of page 3 (Table 2) outlines the engrossed bill in column one and provides detail of the amendment WSI is proposing in columns 2 and 3. Column 4 represents the aggregate of the engrossed version of HB 1021 with WSI's proposed amendments, for a total amended appropriation of \$56.8 million. Excluding the discretionary funding, this represents a 4.1% increase over the 2007-09 biennium.

As this is a high overview, I would like to take some time to expound on each of the line items.

**Salaries, Wages & Benefits.** The Executive Recommendation of \$34.8 million was reduced by three percent (\$1,045,058) based upon the organizations FTE count, to recognize anticipated savings from vacant positions and employee turnover as determined by the House Appropriations Committee. WSI fully understands the intent of this adjustment. However, WSI respectfully requests these funds be restored to the organizations' 2009-11 budget appropriation. **Attachment 2** contains this proposed amendment. WSI has a history of prudently managing its budgeted appropriations. As a special fund, any unexpended appropriations remain within the WSI fund. Accordingly, this funding would also remain within the fund if it was determined the funding was not needed.

**Operating Expense.** The proposal provides a \$5.7 million or 71% increase from the 2007-09 biennium. Much of this increase relates to funding additional Information Technology (IT) projects, increased consultant costs, and future strategic initiatives. Some of the major items include:

- Additional IT Projects
  - Web Portal, Claims Back-Scanning, FileNet Phase II, and Intranet Replacement.
- Increased consultant costs
  - Actuarial, Audit, Benchmarking, Reviews, Strategic Planning, and Customer Surveys.
- Future Strategic and Other Initiatives
  - Monograph Services, Provider Relations Initiative, and Professional Development.

**ITTP Program.** You may recall WSI received an appropriation of \$14,000,000 in the 2007-2009 biennium for its major computer system replacement project, also known as WSI's Information Technology Transformation Program (ITTP). This program has been a cooperative effort with the state Information Technology

Department (ITD) and is well underway. Completion is planned for the 2009-2011 biennium. When WSI submitted its budget for the 2009-11 biennium in May 2008, it was estimated that \$8,000,000 of the original \$14,000,000 appropriation would be spent in the current biennium; and the remaining \$6,000,000 would be expended during the 2009-2011 biennium due to timing of the project. Based upon the most recent projections available – as of February 25, 2009, these estimates have been revised to \$6,983,000 and \$7,017,000 respectively. WSI is requesting the 2009-11 appropriation be updated to reflect these revised estimates. **Attachment 2** contains this proposed amendment. WSI is taking precautions to ensure the \$7.02 million needed to complete the project in the 2009-11 biennium is not being expended in the current biennium and these funds will remain within the WSI fund. With this proposed amendment, WSI is requesting these funds be re-appropriated in the next biennium for completion of the ITTP project.

**Capital Assets** are an insignificant part of WSI's appropriation. WSI is not budgeting any capital assets for the 2009-11 biennium.

**FTEs** – WSI currently has an appropriation of 237.14 FTEs and outside of the discretionary FTE authority outlined in Section 2 of the bill, WSI is not requesting additional FTEs for the 2009-11 biennium.

**Section 2: Discretionary FTEs for Vocational Rehabilitation Services** - Section 2 of the bill provides discretionary authority to hire up to ten full-time equivalent employee positions and related funding of \$1,355,000 to provide vocational rehabilitation services should it be determined that it would be more efficient and cost-effective to do so. WSI currently contracts with a rehabilitation vendor to provide these services. The existing vendor has rehabilitation consultants located regionally throughout the state that work with injured workers throughout the vocational rehabilitation process. WSI periodically issues requests for proposals and competitively bids for these services. Only one bid was received during the last procurement process. The intent of this section is to ensure a fallback mechanism exists in the event there is a limited response to future procurements for vocational rehabilitation services or vendor negotiations prove unsatisfactory to WSI. **Attachment 3** contains estimated biennial funding for the 10 discretionary FTEs.

Thank you again for your time today and your consideration of WSI's biennial appropriation request and proposed amendments. At this time, I would be glad to answer any questions you may have.

## Workers Compensation Legislation—Historical Benefit Enhancements and Current Proposals

### 1999 Legislative Proposals

Provides for payment of eyeglasses and other devices if an injury occurs and damages those prescriptive devices (HB 1061)  
 Provides for an extension of an additional 20 weeks to the current 104-week limit for retraining programs (HB 1062)  
 Increases the eligibility pool for job search benefits (HB 1062)  
 Establishes pilot program to assess new methods of providing rehabilitation services (HB 1062)  
 Shortens eligibility period for cost of living adjustments (COLAs) for pre-1/1/06 total disability claims from 7 to 3 years (HB 1064)  
 Expands COLA eligibility for pre-1/1/06 claims to include both permanent total and temporary total benefit recipients (HB 1064)  
 Increases the maximum disability benefit from 110% to 125% of the state's average weekly wage (SAWW) (HB 1101)  
 Increases lifetime cap on death benefits from \$250,000 to \$300,000 (HB 1101)  
 Increases burial expense from \$6,500 to \$10,000 and one-time payments for spouses and dependent children (HB 1101)  
 Increases the dependency allowance from \$10 to \$15 per week per child (HB 1101)  
 Increases pre-acceptance disability benefits from the minimum benefit rate to the standard rate (HB 1101)  
 Increases travel and other personal reimbursements on aggravation claims to 100% (HB 1101)  
 Provides up to six months benefits for the surviving spouse of a PTD that provided home health care during disability (HB 1455)  
 Provides for a study of the post-retirement benefit structure to be conducted during the interim (HB 1525)  
 Resolution to study workers' compensation laws regarding pre-existing injuries (HCR 3008)  
 Establishes a PPI schedule award for the partial loss of eye sight (SB 2057)  
 Provides for attorney fees and costs for review of a claim after OIR completion (SB 2059)  
 Provides for a rehab training expense for maintaining a second household or traveling more than 25 miles to school (SB 2419)

### 2007 Legislation

Provided funds for the purchase or adaptation of motor vehicles for the catastrophically injured (HB 1038)  
 Provided increased post-retirement additional benefits for certain injured workers (HB 1038)  
 Expanded the population that is eligible for death benefits (HB 1038)  
 Shortened eligibility period for cost of living adjustments (COLAs) from seven years to three years (HB 1038)  
 Expanded the eligibility pool for WSI's revolving loan fund (HB 1038)  
 Provided inflation adjustment for long-term Temporary Partial Disability benefit recipients (HB 1140)  
 Provided funds for the purchase or adaptation of motor vehicles for catastrophic and exceptional circumstance claims (HB 1411)  
 Provided benefits for firefighters and law enforcement officers in the event of a false positive test (SB 2042)

### 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 an injured worker educational revolving loan fund (HB 1491)  
 Increased the non-dependency death award (HB 1506)  
 Increased post-retirement additional benefit payments (SB 2351)

### 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)

### 2001 Legislation

Increased certain permanent partial impairment awards (HB 1161)

### 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)

### 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)

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1021

Page 1, line 11, replace "169,392" with "2,231,450" and replace "\$53,410,547" with "55,472,605"

Renumber accordingly

ENGROSSED HB 1021			
	Base Level	Amendments	Appropriation
Total special funds	53,241,155	169,392	53,410,547

Proposed Amendments		1,045,058	
		1,017,000	
Proposed Appropriation	53,241,155	2,231,450	55,472,605

Dept. 485 - Workforce Safety and Insurance - Projection of 09-11 RTW Voc Rehab Consultants Proposal  
Information Regarding 10 New FTE Positions

	FTE	Salary and Wages				Operating Expenses										Grand Total
		Monthly Base	Proposed Salary	w/1st yr Increase	Proposed Fringes	Total	Travel	Misc. Supplies	IT Equip. < \$5,000	Office Equipment	IT Comm	Prof. Dev.	Total			
Bismarck	1.00	\$4,115	\$98,760	\$101,229	\$36,541	\$137,770	\$5,250	\$500	\$1,750	\$1,000	\$840	\$1,975	\$11,315	\$149,085		
Bismarck	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Bismarck	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Fargo	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Fargo	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Dickinson	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Jamestown	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
G. Forks	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	8,000	\$840	\$1,709	20,219	139,408		
G. Forks	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	8,000	\$840	\$1,709	20,219	139,408		
Minot	1.00	3,560	85,440	\$87,576	\$31,613	\$119,189	\$7,420	\$500	\$1,750	1,000	\$840	\$1,709	13,219	132,408		
Total	10.00		\$867,720	\$889,413	\$321,056	\$1,210,469	\$72,030	\$5,000	\$17,500	\$24,000	\$8,400	\$17,354	\$144,284	\$1,354,754		

ATTACHMENT 3