

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1101

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1101

**House Industry, Business and Labor Committee**

☐ Check here for Conference Committee

**Hearing Date:** January 26, 2009

**Recorder Job Number:** 7694

Committee Clerk Signature

*Ellen Letting*

**Chairman Keiser:** Opened the hearing on HB relating to worker compensation dependency allowances, preacceptance disability benefits, maximum disability benefits, travel & other reimbursement, death benefits & burial expenses & provide application.

Rob Forward~Staff Attorney for WSI. See testimony attachment.

Vice Chairman Kasper: Would you be able to provide the charts of comparison of all the various states.

Forward: Yes.

Representative Ruby: Could you explain the reason for increasing the death benefit?

Forward: I am not able to answer that. I was not in on that decision.

Representative Amerman: I was looking at the two bills and this one is more involved than mine. Along those lines when you move from 10 to 15 dollars on page one, line 11 & 12, who does this all cover?

Forward: The line outs on lines 11 & 12 don't effect. Our application applies to everybody, look in section eight.

Representative Gruchalla: On page two raising the benefit from 110% to 125% for the average weekly rates. How often do you calculate that average weekly rate?

Forward: It is calculated on the first day of disability and recalculation doesn't take place until after you have gone off benefits for a certain period of time and come back on. I don't remember what the time periods are. Seems that you have to work for 12 month and you come back on and then you are entitled to a recalculation. There has to be a break in benefits at some time before recalculated.

Representative Gruchalla: So you are fixed at the time of the injury.

Forward: Generally speaking, yes.

Chairman Keiser: There is a KOLA after three years.

Representative Ruby: The amount that is fixed is what the 66 2/3 of your income. The average 125% of the state and that is decided on annually?

Forward: Yes, decided on annually.

Bill Shalhoob~North Dakota Chamber of Commerce. See testimony attachment. We also support this legislation.

Jack McDonald~Representing North Dakota Funeral Association. We do support the bill. The increase does reflect closer cost to the average of an ordinary funeral today.

Dave Kimmetz~President of the AFL-CIO. We support the bill.

Sebald Vetter~C.A.R.E. We support this bill.

Russ Hanson~Executive Vice President of AGC of North Dakota. We are in support of this bill.

Kimmetz: May I clarify a point? There were some cuts in benefits.

Anyone here to testify in opposition, neutral?

Closes the hearing on HB 1101. What are the wishes of the committee?

**Representative Ruby: Move a Do Pass on HB 1101.**

**Vice Chairman Kasper: Second.**

**Voting roll call was taken on HB 1101 with a Do Pass with 12 yea's, 0 nay's, 1 absent  
and Representative Clark is the carrier.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/22/2008

Bill/Resolution No.: HB 1101

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation increases the weekly dependency allowance; increases the pre-acceptance disability benefit rate; increases the maximum disability benefit rate; provides for increased payment of mileage on aggravation claims; and increases death related benefits.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE  
2009 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1101

BILL DESCRIPTION: WSI Injury Services Bill

**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation increases the weekly dependency allowance from \$10 to \$15 per week per dependent child; increases the pre-acceptance disability benefit rate from the minimum to the standard rate for each eligible recipient; increases the maximum disability benefit rate from 110% to 125% of the state's average weekly wage (SAWW); provides for payment of mileage on aggravation claims at 100%; increases the burial expense, one time spouse and dependent children benefit payments, and weekly dependency allowance for death benefit claims; and increases the lifetime death benefit cap from \$250,000 to \$300,000.

**Reserve Level Impact:** It is anticipated the proposed legislation in its entirety will increase discounted reserve levels by approximately \$500,000.

**Rate Level Impact:** It is anticipated that the proposed legislation in its entirety will serve to increase future premium rate levels by approximately 1.5% or between \$2.0 and \$2.5 million per year.

DATE: December 26, 2008

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	John Halvorson	<b>Agency:</b>	WSI
<b>Phone Number:</b>	328-6016	<b>Date Prepared:</b>	12/26/2008

Date: Jan 26-2009  
Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1101

House House, Business & Labor Committee

☐ Check here for Conference Committee

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

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As Amended

Motion Made By Ruby Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	1		Representative Amerman	1	
Vice Chairman <u>Kasper</u>	1		Representative Boe		
Representative Clark	1		Representative Gruchalla	1	
Representative N Johnson	1		Representative Schneider	1	
Representative Nottestad	1		Representative Thorpe	1	
Representative Ruby	1				
Representative Sukut	1				
Representative Vigasaa	1				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Clark

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

**REPORT OF STANDING COMMITTEE (410)**  
January 26, 2009 12:15 p.m.

**Module No: HR-15-0914**  
**Carrier: Clark**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1101: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1101 was placed on the Eleventh order on the calendar.



2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1101

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1101

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: 03/03/2009

Recorder Job Number: 10093

Committee Clerk Signature



Minutes:

**Sen. Klein** opened the hearing on HB 1101, a bill relating to worker's compensation dependency allowances, preacceptance disability benefits, maximum disability benefits, travel and other reimbursement, death benefits, and burial expenses.

**Rob Forward**, Staff attorney with WSI, testified in favor of the bill. See attached testimony, attachment #1.

**Sen. Horne**- on the third page of your testimony where it talks about the death benefit, is this a death benefit that would be paid if I was a worker and I was killed on the job?

**Rob**- the death has to be caused by your work injury so that is correct.

**Sen. Klein**- so if you are killed on the job you would be in titled to the full benefit than?

**Rob**- yes your spouse and children would be in titled to a total payout of \$300,000.

**Sen. Klein**- but that is paid out over a period of time?

**Rob**- yes it is paid out based on your pre-injury weekly wage.

**Sen. Potter**- How do they know how to apply for this?

**Rob**- usually we would have the employer fill out the claim for that is usually what happens, in the recent past we have started to contact the employer.

**Sen. Horne-** let's say I was killed on the job and the \$300,000 went to my wife and my employer also had an insurance policy on my life would that be in addition to what the employer carried?

**Rob-** yes it is in addition to any policy you have on yourself or any policy your employer might have.

**Jack McDonald,** ND Funeral Directors association, testified in favor of the bill.

**Jack-** We are supporting the bill and particularly the provision of the bill. The average cost of a funeral is around \$9,400-9,500, so this benefit that is proposed in the senate bill will be very helpful to the WSI claimants so we would support this bill.

**Sen. Nodland-** the average payment that counties pay for social service clients is about \$4,500?

**Jack-** yes that is correct, that varies from county to county.

**Sylvan Loering,** testified in support of the bill.

**Sylvan-** I want to thank WSI for bringing this before legislation and would recommend a do pass.

**Sebald Vetter,** C.A.R.E. testified in favor of the bill.

**Sebald-** I too support this bill.

**Leroy Vetter-** I feel this will give some of the parents that have little ones a little more than what they are getting and other than that I would recommend a do pass on this.

**Jeb Oehlke,** ND Chamber of commerce, testified in favor of the bill.

**Jeb-** We also support this bill.

No opposition to the bill.

**Sen. Klein** closed the hearing.

**Sen. Horne** motioned for a do pass and to be rereferred to appropriations and was seconded by **Sen. Nodland**, roll call vote 6 yea 0 nay 1 absent. **Sen. Klein** was designated to carry the bill to the floor.

Date: 3/3/09  
Roll Call Vote #: 1

## Senate

## Industry, Business and Labor

**Legislative Council Amendment Number**

 **Pass**

☐ **Do Not Pass**

☐ **Amended**

Motion Made By Senator Horne Seconded By Senator Nodland

[illegible]

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Klein

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

Bill is rereferred!

**REPORT OF STANDING COMMITTEE (410)**  
March 3, 2009 4:29 p.m.

**Module No: SR-38-3984**  
**Carrier: Klein**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1101: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1101 was rereferred to the Appropriations Committee.**

HB 1101

Industry, Business and Labor Committee

(At the request of Workforce Safety and Insurance)

Relating to workers' compensation dependency allowances, preacceptance disability benefits, maximum disability benefits, travel and other reimbursement, death benefits, and burial expenses; and to provide for application.

0126 H	Introduced, first reading, referred Industry, Business and Labor	HJ 0044
0126 H	Committee Hearing 08:00	
0127 H	Reported back, do pass, placed on calendar y 012 n 000	HJ 0246
0211 H	Second reading, passed, yeas 094 nays 000	HJ 0475
0212 S	Received from House	SJ 0386
0225 S	Introduced, first reading, referred Industry, Business and Labor	SJ 0573
0303 S	Committee Hearing 02:00	
0305 S	Rereferred to Appropriations	SJ 0661
0305 S	Request return from committee	SJ 0661
0309 S	Second reading, passed, yeas 047 nays 000	SJ 0684
0310 H	Returned to House	HJ 0875
0320 S	Signed by President	SJ 0894

*no Senate Appropriations minutes*

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ENTER F TO PAGE FORWARD, B TO PAGE BACKWARD, C TO CONTINUE INQUIRY,  
T TO DISPLAY TEXT VERSION LIST, PRESS ENTER TO RETURN TO MENU  
ENTER JOURNAL PAGE NO TO DISPLAY THE JOURNAL INFO

2009 TESTIMONY

HB 1101



**2009 House Bill No. 1101**  
**Testimony before the House Industry, Business, and Labor Committee**  
**Presented by Rob Forward, Staff Attorney**  
**Workforce Safety & Insurance**  
**January 26, 2009**

Mr. Chairman, Members of the Committee:

My name is Rob Forward and I am a staff attorney with WSI. I am here on behalf of WSI to testify in support of House Bill 1101. WSI's Board of Directors unanimously supports this bill.

All substantive sections of this bill increase benefits to injured workers.

First, **Section 1** raises the amount of money paid to injured workers who have children from ten dollars per child per week to fifteen dollars per child per week. It is fair to characterize this type of benefit as a bit of an oddity in the workers compensation industry because most systems recognize that the amounts paid to injured workers for wage loss are already designed to account for people who have children, and an additional benefit for children is not considered logical. We point this out because WSI does not maintain that this benefit is one upon which a person can raise child, and that it should not be considered in that way. The increase that is now being proposed was also proposed during the last legislative session. The research conducted then showed that this type of benefit is paid in only six jurisdictions. For the sake of comparison, four of those six jurisdictions pay the benefit in a weekly manner like North Dakota. Of those four, the highest rate is fifteen dollars per child per week in Rhode Island. The others pay five, six, and ten dollars per week.

Next, **Section 2** elevates the benefit paid to injured workers under the “preacceptance statute.” Under this statute, WSI may pay disability benefits to an injured worker prior to determining whether their claim is compensable. Currently, the amount paid by WSI in these situations is 60 percent of the average weekly wage in the state, which is the minimum disability benefit allowed. As such, the amount payable to injured workers does not take into consideration what their actual wage loss happens to be. This bill directs WSI to pay the same disability benefit it would pay as if the claim was accepted. In other words, WSI would be able to pay injured workers preacceptance benefits using the statutory formula that is based on injured workers’ actual wages. In practice, this change will raise the amounts payable to injured workers receiving preacceptance benefits who are earning more than the state’s average weekly wage at the time of their injury.

**Section 3** and **Section 4** increase the maximum disability benefit from 110 percent to 125 percent of the state’s average weekly wage. In other words, this change raises the cap on the wage loss benefits for injured workers. The current average weekly wage in North Dakota is \$626, so the increase would mean that the maximum rate would change from \$689 (110%) to \$783 (125%). Another way of explaining this is to say that an injured worker can now make up to \$61,000 per year (\$1,175 per week) in pre-injury wages before the cap applies.

**Section 5** of the bill increases reimbursements to injured workers who are being paid an apportioned benefit. For some injured workers, their injuries are not entirely caused by the workplace and so the law requires that their benefits be reduced according to the percentage of their injury that is attributable to some non-work related cause. Currently, WSI pays all benefits on these claims at a reduced percentage except for the costs of vocational rehabilitation, burial expenses, and dependency allowances. Those exceptions are paid on a 100 percent basis. WSI proposes to also pay travel and other personal reimbursement related to seeking and obtaining medical care on a 100 percent basis.

Next, **Section 6** of this bill increases the maximum amount of death benefits payable to a worker's spouse and eligible children from \$250,000 to \$300,000; it increases the current one-time death benefit for the spouse from \$1,200 to \$2,500; and the current one-time death benefit for children from \$400 each to \$800 each. And, although it does not appear in the language of the bill, the non-dependency death benefit would also be increased because it is calculated as a percentage of the dependency death benefit (five percent); this increase would be from \$12,500 to \$15,000. The death benefit cap was last changed in 2003 when the Legislative Assembly increased it from \$197,000 to \$250,000.

Finally, **Section 7** increases the maximum burial benefit from \$6,500 to \$10,000 for expenses for the handling of funeral arrangements. The last time this benefit was increased was in 1999 when the Legislative Assembly increased the benefit maximum from \$5,000 to the current level. For the sake of comparison, 46 of the 51 of workers compensation jurisdictions in the United States have a cap of less than \$10,000; three pay up to \$10,000; and the two highest jurisdictions pay up to \$15,000.

This concludes my testimony. I would like to answer any of your questions.



Testimony of Bill Shalhoob  
North Dakota Chamber of Commerce  
HB 1101  
January 26, 2009

Mr. Chairman and members of the committee, my name is Bill Shalhoob and am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also representing seven local chambers with total membership over 7,000 members and ten employer associations. A list of those associations is attached. As a group we stand in support of HB 1101 and urge a do pass from the committee on this bill.

We supported this bill last session and hope it will earn your vote this session. Although the price tag is substantial the increase to the dependency allowance is long overdue. Raising the pre-acceptance disability benefit from minimum benefit rate to the standard rate, the maximum disability rate from 110% to 125% of the state's average weekly rate and the increase in reimbursements on aggravation claims to 100% are warranted. We feel the increases in the death benefits more accurately reflect appropriate payments in these tragic cases.

Thank you for the opportunity to appear before you today in support of HB 1101. I would be happy to answer any questions.

*THE VOICE OF NORTH DAKOTA BUSINESS*

**2009 House Bill No. 1101  
Testimony before the Senate Industry, Business, and Labor Committee  
Presented by Rob Forward, Staff Attorney  
Workforce Safety & Insurance  
March 3, 2009**

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