

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1524

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1524

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7874 starting at 50.50minutes and 7875

Committee Clerk Signature

*Ellen LeTang*

**Chairman Keiser: Opened the hearing on HB 1524 relating to worker's compensation fraud & provide a penalty.**

Representative Amerman: Goes over the changes to HB 1524.

Chairman Keiser: Currently, if they show fraud, the benefits are lost. What level of evidence do they have to meet now?

Representative Amerman: I don't have the answer now.

Sylvan Loegering~North Dakota Injured Workers Support Group. See testimony and amendment in attachments.

Representative Ruby: As the law stands, they would not forfeit any benefits.

Loegering: Question is what substantial loss is.

Representative Amerman: Substantial loss would be a loss to the organization by clear evidence. The way it is now, it's applicable. If they see things out there and it's not much of a loss and didn't know what they were doing, but the bureau thought it was a loss, they cut off any future benefits. What I'm doing here, if the bureau wants to cut off any additional benefits, it has to be suffer loss. If you get cut off, it should have to demonstrate clear and convincing evidence, which is higher preponderance and it must be the highest level they go.

Chairman Keiser: We will get those answers or at least on the legal term.

Dave Kemnitz~President of the North Dakota AFL-CIO. See testimony attachment.

Representative Clark: Do you ever have written testimony?

Representative Ruby: You used the word overstate, that's a pretty gentle term which means they are lying, you said that they use that to strike a balance, like that's almost justifiable. Is that what you meant?

Kemnitz: The bureau understates and forcing the claimant to overstate in order to come to the middle to resolve.

Keiser: Talks about antidotal examples and there is always two sides of the story.

Kemnitz: You are privy to information I don't have.

Chairman Keiser: This is public record. This was a clear case of fraud. Claims made by the individual that certain conditions existed and benefits were paid based on those claims. Then under observation, the same individual was throwing hay bales. Under her condition, there was no way she could throw hay bales, sounds good until you see the file.

Kemnitz: Was found guilty in a court of law?

Chairman Keiser: I don't know. They had documented findings. She did not disagree with them. Point I'm trying to say is they need to sign releases so we can see the whole file not just what is claimed.

Chairman Keiser: What's your definition of clear and convincing?

Kemnitz: That's best to the attorneys.

Chairman Keiser: That's yours. What's your standard for the cases that appear before us that were brought as claims and documented? The person the person admits it?

Kemmits: I'm not a judge and neither is this committee. A snap shot is unfair.

Representative Ruby: This isn't the only agency that has administrative punitive remedies.

DOT can pull you license at the court level even aren't found guilty. They have a different bar that they have to meet. I still haven't heard the definition of substantial loss.

Kemnitz: That is something that they need to prove that's your fund, our fund will substantially impacted by something over \$500.

Representative Ruby: \$500.

Kemnitz: That's the law now. More than \$500 initiates the class b felony.

Sebald Vetter~ President of C.A.R.E. I support this bill and agree with Sylvan & Dave. What about the employer? He should be held accountable also if they do anything wrong.

Anyone here to testify in opposition?

Tim Wahlin~ Chief of Injury Services. See testimony attachment.

Representative Thorpe: Back several sessions, there was testimony a person receiving benefits and what he called the goon squad, took pictures of him out fishing. WSI felt that the injuries he had, he should have been fishing. I felt at that time that if I were in his shoes and receiving benefits and enjoyed fishing. I didn't know if I were going to be here tomorrow or not, by God, I'm going fishing. The present law on the books, would that be fraud?

Wahlin: No, fishing is not going to be fraud. What we look at whether or not there has been a false statement. If that person indicated their not able to do x, y, z, they are not able to go to work because they can't walk, lift, turn, and so they are unable to return to work. Then their lifestyle shows that in fact they can do all of those things. Then in that case, we look at the life style actually looks like opposed to what they are telling people. If there is a difference, that may be fraud. I think there needs to be a clear distinction there. We are not to police or prohibit person's actions. We are required some due diligence with respect to making sure

what we are being told, in fact, is the case. We have 21,000 claims per year. Our fraud statistics bounce around between 5 & 15 cases terminated per year.

Representative Thorpe: They can be hurting pretty bad and still go fishing.

Chairman Keiser: I'm aware of one fisherman with a severe back injury and I've seen the video showing him loading his aluminum boat on top of his car, loading the motor into the car, and unloading at the dock. He maintains he couldn't lift more than ten pounds. That was repeated trials. Again, that's the dilemma, I don't know where you decide whether that fraud or not. It's a political issue.

Representative Amerman: Tim, on the second page of your testimony, that is strong statement, can you tell me where I am changing the penalties?

Wahlin: To the extent of the changes of penalties, it would change the application of the forfeiture penalty. If we look at simply requiring what we can prove that is paid in error, I don't see any deterrent affect what so ever. The deterrents come in when you are looking at forfeiture. Basically, we can't regulate all 20,000 claims. It's based on honesty.

Vice Chairman Kasper: Can you define "preponderance of the evidence" in your testimony and "clear and convincing evidence". What are the differences between those two phrases?

Wahlin: The legal system has different levels of proof that would require different situations preponderance of the evidence. So I must be persuaded to the fact finder by 51% of the evidence that this happened more likely or not. Clear and convincing evidence requires clear persuasion. Can we assign a number, no. That a higher level than preponderance of the evidence, but I can't tell you other than those type of descriptions.

Representative Amerman: Any statues where the employee has to prove his innocence by clear and convincing?

Wahlin: There are.

Chairman Keiser: The language of the law, it is clear and convincing that if the claimants willfully misrepresent facts, they can be taken off the system for life. What about business & medical providers, do we say to a business, you can no longer participate in North Dakota fund?

Wahlin: Yes, to all of them.

Chairman Keiser: In a separate section of the code, we have address employer and providers. The penalty is more extreme.

Wahlin: I can't comment if it's more extreme or not but forfeiture is real.

Chairman Keiser: The other concern, if you read the strict interpretation of the language, any willful statement, it is a lie, it is fraud by definition, but in the scope of the world, it's not a being event, and yet technically we could take their benefits away for life. Is that correct?

Wahlin: I don't believe so. One of the things the supreme court has told us in all these cases is that the false claimer's statement must be material or meaningful.

Tom Balzer~Representing Bill Shalhoob-North Dakota Chamber of Commerce. See testimony attachment.

Chairman Keiser: I think our low rate is not caused by the level of evidence required but based on the quality of our employees.

Loeering: I want to clarify the record. If I understood the citation correctly, 65-0333, this does not include penalties. 65-0433 does stipulate penalties for employers including everything for failure to secure coverage but not for other actions.

Chairman Keiser: Is there a different section that covers employers or not on that issue.

Wahlin: This is the section that I was scrambling to pull. We can get back to you with the answers.

Chairman Keiser: Take a five minute break so Tim Wahlin can get answers.

Wahlin: I misunderstood and apologize. The proposed amendment would amend into 05-33, employer would lie for a claim denial and we have anything that directly affects them. Our 04-33 deals with misrepresentations of an employer in securing or non securing coverage or misrepresentations of classification. 05-33 while false claims & statement penalties include an employer, a misdemeanor. Nothing specifically to create a liability, we don't have anything that specifically addresses that.

Chairman Keiser: Did you construct these.

Loegering: Yes.

Chairman Keiser: I understand the intent, but we have to run them through legislative council because they may want to use a different word to be consistent. Draft them as amendments to the bill and on their own merits.

Sylvan: Instead of the couple of words I stuck in, I actually prefer a subsection that addresses that.

Chairman Keiser: We will ask them that question. They might want to add a new subsection that addresses employers. That a good suggestion.

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1524

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8551

Committee Clerk Signature *Ellen Letana*

Chairman Keiser: Opened the committee work session on HB 1524.

I have two set of amendments. Here is the first set and the second set adds the second page to it. Nothing was said, they were just sent down.

Chairman Keiser: Who had them drafted?

Representative Nottestad: Remember, Jodi went up with Sylvan.

Chairman Keiser: OK.

Representative Nottestad: As I'm through them, they are identical except a second page was added.

Representative Ruby: As far as replacing that person with an employee?

Chairman Keiser: I don't think that's significant.

Representative Ruby: To me it seems like it would refer to the purpose of the bill would be to pertain mainly to the employer and to the employee at all. When you say that person, it could apply to employee or the employer misrepresenting on line 13, page one.

Representative N Johnson: On line nine, it says it's a class misdemeanor person or employer.

Chairman Keiser: I now know what the difference is between the long and the short. The

short one is just addressing the issue of adding the employer in the fraud. The longer one does that but remove the section lines five & six the standard of evidence and the actual

substantial loss. This is an issue in the interim. The claimants frequently will openly admit that they behaved fraudulently but it didn't cause significant financial damage to the organization but they loss 100% of their benefit if they so chose.

Representative Amerman: This is the first time I've seen the amendments and I wished that Sylvan would have talked to me and explained to me.

Chairman Keiser: We don't need to accept the amendment. Do you want more time?

Representative Amerman: No.

Representative Vigesaa: The long amendment will return page two to the original language.

Chairman Keiser: Representative Amerman you do not support the second amendment at all?

Representative Amerman: In the interest of being fair, I do not support either one.

Representative Ruby: Do we go after the employee and make them pay for the cost of the action?

Chairman Keiser: No, but they lose their benefit.

Representative Nottestad: Are these accounts available or to they go into the general fund of WSI?

Chairman Keiser: The money.

Representative Nottestad: Yes, the money in the employer's account.

Chairman Keiser: No, every employer has an account and your premium is based on performance, so they assessed it to your account. It would be like having another claim. The employer would pay.

Chairman Keiser: Representative Amerman do you want the bill to go as is?

Representative Amerman: That would be my suggestion.

Chairman Keiser: What are the wishes of the committee?

**Representative Ruby: Moves a Do Not Pass.**

**Representative Clark: Second.**

**Chairman Keiser: Further discussion.**

**Voting rolling was taken on HB 1524 for a Do Not Pass with 8 ayes, 4 nay's, 1 absent with Representative Nottestad the carrier.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/21/2009

Bill/Resolution No.: HB 1524

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 standard in which WSI can terminate future benefits in cases of workers' compensation fraud.

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 1524

BILL DESCRIPTION: Workers' Compensation Fraud

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 standard in which WSI can terminate future benefits in cases of workers' compensation fraud.

FISCAL IMPACT: We do not have access to an appropriate base of historical experience to use in quantifying the anticipated impact of the proposed legislation on premium rate and reserve levels. However, to the extent the legislation hampers WSI's ability to terminate future benefits when fraud is involved as well as diminish the degree to which the current statutes deter fraud, losses will increase and future premium levels will be adjusted accordingly.

DATE: January 24, 2009

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>	01/24/2009

Date: Feb 3 - 2009  
Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1524

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 Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman		7
Vice Chairman Kasper	7		Representative Boe		
Representative Clark	7		Representative Gruchalla		7
Representative N Johnson	7		Representative Schneider		7
Representative Nottestad	7		Representative Thorpe		7
Representative Ruby	7				
Representative Sukut	7				
Representative Vigesaa	7				

Total (Yes) 8 No 4

Absent 1

Floor Assignment Nottestad

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

**REPORT OF STANDING COMMITTEE**

HB 1524: Industry, Business and Labor Committee (Rep. Keiser, Chairman)  
recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1524 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1524

## REMARKS FOR IBL COMMITTEE re HB 1524

Sylvan Loegering. Volunteer Coordinator, ND Injured Workers Support Group

I support passage of this measure but I would like to propose an amendment.

First of all, my position on fraud was stated to the interim IBL Committee last year and it has not changed. If an employee lies or makes false statements to receive benefits he or she is punished and/or can lose benefits and **that is how it should be**. On the other hand, if an employer, a WSI employee, a doctor or anyone else lies to reduce benefits the **penalty should be equally swift and severe**.

In reviewing the Century Code I found 65-02-23 that authorizes establishment of a fraud unit to investigate fraud by employees, employers or providers. That same section authorizes expenditure of funds for those purposes and requires the biennial performance evaluation to include a report on the effectiveness of those expenditures. (The 2008 performance evaluation stated that WSI at that time had no effective fraud prevention system for employer or provider fraud. It also stated that this same weakness had been pointed out in the 2006 performance evaluation.) In the Century Code I found an employer penalty for not providing workers' compensation protection. There is a penalty for an employer falsely attempting to get claims for an injured worker but I found no penalty for an employer or anyone else who lies to **prevent** awarding of benefits.

Injured workers are not the only ones who stand to gain or lose based on awarding of benefits. If medical expense benefits are denied for a particular incident, the employer immediately gains \$250. The employer can also gain if that denial allows rebate of premiums or payment of safety grants. An injured worker can be charged with a felony for trying to gain at least \$500. A sense of fairness and common decency indicates the employer or others should be subject to the same charges for similar offenses.

I'm sure employers will bristle at the thought that anyone could think that they might commit fraud. I can tell you this- injured workers who are playing by the rules also feel hurt when they are accused or suspected of fraud and I hear from many who feel they are suspected of fraud by WSI employees.

I urge you to pass this measure including an amendment that holds employers and others to the same standards that we apply to injured workers.



## **IDEAS FOR AMENDING HB 1524**

Sylvan Loegering, Volunteer Coordinator, ND Injured Workers Support Group

On line 11, change the word "secure" to "affect" or "affect decisions regarding"

On line 22, after "services" insert "or other financial gain"



**January 27, 2009—House I B & L Committee Testimony on WSI bills.  
ND AFL-CIO  
David L. Kemnitz; President**

**HB 1410**

Introduced by; Representatives Wald, Grande, Klein; Senator Wardner  
A BILL for an Act to amend and reenact section 65-05-09.2 of the North Dakota Century Code, relating to workers' compensation offset for social security retirement benefits.

**The ND AFL-CIO supports HB 1410 and feels it is an earnest attempt to rectify some of the 1995 Legislative Session changes that adversely affected claimants.**

**HB 1427**

Introduced by; Representatives Thorpe, Onstad, Zaiser; Senators Bakke, Taylor.  
A BILL for an Act to amend and reenact section 65-05-04 of the North Dakota Century Code, relating to an injured worker's request for workers' compensation to exercise continuing jurisdiction.

**The ND AFL-CIO supports HB 1427. The over struck language on lines 12 thru 14 point to the essence of problems claimants with newly acquired or additional medical information have with getting WSI to review their denied claim. WSI has the ability to review claims but more often than not WSI refuses to review and adjust these claims.**

**Because of this experience with WSI refusal to review newly acquired or additional medical information, HB 1427 has been introduced.**

**The new language in lines 15 thru 21 would provide guidance and form for WSI to follow when the question of review comes up. The changes in our opinion are very appropriate in answering WSI claimant pleas for relief under the act.**

**HB 1455**

Introduced by; Representatives Thorpe, Boucher, Ekstrom, Zaiser; Senator Bakke  
A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to workers' compensation benefits for surviving spouse of permanently and totally disabled injured employee; and to provide for application.

**The ND AFL-CIO supports HB 1455. The surviving spouse of a WSI claimant is more often than not the primary caregiver of the seriously and permanently injured worker. WSI does not provide compensation to these spouses, in addition the wage loss over the period of disability is substantial and resultantly the Social Security benefits for the surviving spouse are drastically reduced. This bill seeks to recognize the support of a surviving spouse/caregiver by awarding a small but measured monthly income stabilizer. This we feel is not only appropriate but also sincerely needed in these instances.**

**HB 1524**

Introduced by; Representatives Amerman, J. Kelsh, Wolf;  
Senators Dotzenrod, Fiebiger, Nething;  
A BILL for an Act to amend and reenact section 65-05-33 of the North Dakota Century Code, relating to workers' compensation fraud; and to provide a penalty.

**The ND AFL-CIO supports HB 1524. The language added on page 2 lines 5 & 6 actually help clarify when and how WSI uses its punitive, judiciary powers granted by the legislature, when attempting to bring a claimant to a position of compliance with the force of law and or threats of possible conviction of a Class A misdemeanor or worse a Class C Felony.**

**We have opposed the implementation of NDCC Section 65-05-33 beginning with the original discussion of its inception.**

**Does the legislature intend giving ungoverned judicial punitive powers to a state agency? In this case the Worker's Compensation Bureau? Powers that if or when used result in catastrophic economic loss to citizens of this state? These citizens are hardly the criminal element needing punishment, quite frankly it could be fairly said that the claimants falling under this statute have not set out to harm anyone and it is again fairly said that their actions did in fact harm no one, yet they are subject to threats of Class A misdemeanor or Class C felony.**

**It can be said that a state agency should not have the use of "felony charges" to coerce or cause the relinquishment of benefits and rights to those benefits by any citizen previously establishing title to those benefits or rights.**

**In order to address the above concerns it seems correct to ask that the HB 1524 changes to NDCC Section 65-05-33 be adopted.**

**To us, HB 1524 simply says to the state agency known as Workforce Safety and Insurance; prove the allegations of fraud by "clear and convincing evidence" before using police, judicial and punitive powers against a citizen.**

**2009 House Bill No. 1524**  
**Testimony before the House Industry, Business, and Labor Committee**  
**Presented by Tim Wahlin, Chief of Injury Services**  
**Workforce Safety & Insurance**  
**January 27, 2009**

Mr. Chairman, Members of the Committee:

My name is Tim Wahlin and I am Chief of Injury Services at WSI. I am here on behalf of WSI to testify in opposition to House Bill 1524. WSI's Board of Directors opposes this bill.

This bill significantly relaxes the forfeiture penalty for workers compensation fraud. Currently there are two civil penalties for injured workers and medical providers that commit fraud: repayment of the amounts gained through fraud and forfeiture of future payments on a specific claim. The North Dakota Supreme Court has established the standard for WSI to follow when assessing these penalties. If a fraudulent person is to repay benefits illegally gained, WSI must prove that the benefits were paid as a result of the fraud. And if a fraudulent person is to lose all future benefits on a claim (forfeiture), WSI must prove that the fraud could have caused WSI to handle the claim differently.

For either one of these penalties to apply, WSI must first prove by a "preponderance of the evidence" the following elements:

1. A false statement or claim has been made;
2. The statement or claim is willful;
3. The false claim or statement was made in order to obtain benefits; and
4. The false claim or statement was material or meaningful.

I point this out to demonstrate that WSI's authority under the current fraud statute has very strict limits and proof requirements in statute and case law. It is no easy task to

obtain the proof necessary to prevail on a fraud charge against very clever individuals who have set their minds to game the system. Any changes that lessen the penalties should not be taken lightly.

The net effect of this bill is to allow situations where fraudulent people stay on benefits even when it has been demonstrated that they have committed fraud. For example, if an injured worker who lies about his physical condition in order to obtain \$100 of oxycontin paid for by WSI and in turn he sells his oxycontin on the street (for \$800); there arguably has been no "actual, substantial loss." Is \$100 "substantial?" Is \$800 "substantial?" Scenarios like this would put WSI into the position of wrestling with the question of when we step in and act. Would WSI wait until a "substantial" amount of WSI-subsidized oxycontin is sold so that benefits can be forfeited? Or should WSI immediately step in and ask for its \$100 to be repaid, and then buy another \$100 worth of the drug for the injured worker because benefits continue?

Another troubling scenario, one that raises a concern over how the bill would be applied to medical providers: if a doctor fraudulently bills for services not rendered on a claim, does the change in HB 1524 prohibit WSI from redirecting care, and future payments, away from that doctor unless WSI can prove that there was an "actual, substantial loss?"

The watering down of the civil penalties for fraud would erode deterrence and the effectiveness of the WSI's ability to combat fraud.

WSI asks for a "do not pass" recommendation for HB 1524. This concludes my testimony. I would be happy to answer any of your questions.



Testimony of Bill Shalhoob  
North Dakota Chamber of Commerce  
HB 1524  
January 27, 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 opposition to HB 1524 and urge a do not pass from the committee on this bill.

HB 1524 raises the fraud standard to "clear and convincing" evidence that there was substantial loss in order to forfeit benefits. This standard will make it virtually impossible for WSI to meet a fraud standard, effectively barring the agency from asserting its rights when fraud is discovered. The current standards are fair for both parties and we hope the committee will reject this change.

Thank you for the opportunity to appear before you today in opposition to HB 1524. I would be happy to answer any questions.

*THE VOICE OF NORTH DAKOTA BUSINESS*

**SYLVAN LOEGERING**

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**From:** "SYLVAN LOEGERING" <loegsylvan@msn.com>  
**To:** <gkeiser@nd.gov>  
**Cc:** "Jodi Bjornson" <jbbjornson@nd.gov>  
**Sent:** Tuesday, January 27, 2009 11:05 PM  
**Subject:** Amendment for HB:1524

Rep. Keiser,

Thank you for the work you are doing with the IBL committee and thanks for tolerating my inexperience with the legislative process.

**Regarding the amendment.** In my testimony I expressed concern about fraud regardless of who perpetrated it. Although our review of Section 65 focused on employers, I hope the amendment also covers other perpetrators such as WSI employees, medical providers or any one else who fraudulently seeks to deny benefits. It could even include medical providers or others who defraud WSI of money for services improperly billed. I believe we are all looking for balance in the law. Just as current law for employee fraud is based on the value of benefits or services, I would hope that fraud denying or attempting to deny benefits or services would be based on the value potentially or actually denied to the injured employee.

I would appreciate, if possible, receiving an e-mail copy of the amendment once it is drafted.

If you or legislative council wants to get ahold of me, the best bet is my cell phone- 701-730-1366.

Sylvan Loegering, Volunteer Coordinator, ND Injured Workers Support Group

January 27, 2009

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1524

Page 1, line 7, overstrike "who" and insert immediately thereafter "that"

Page 1, line 8, overstrike "a person" and insert immediately thereafter "an employee"

Page 1, line 12, after "services" insert "or in an attempt to affect a decision regarding payment of benefits or payment for services"

Page 1, line 13, overstrike "that person's" and insert immediately thereafter "the employee's"

Page 1, line 14, overstrike "that person's" and insert immediately thereafter "the employee's"

Page 1, line 22, overstrike "or" and insert immediately thereafter an underscored comma and after the second comma insert "or other financial gain,"

Page 1, line 23, after the period insert "The cost of an investigation under this section which results in a criminal conviction against the employer may be charged to the employer's account and collected by civil action."

Page 2, line 2, remove the overstrike over "~~shall~~" and remove the underscored colon

Page 2, line 3, remove

"a. Shall"

Page 2, line 4, remove the underscored semicolon and remove the overstrike over "~~shall~~"

Page 2, remove line 5

Page 2, line 6, remove "was actual, substantial loss shall"

Renumber accordingly

January 27, 2009

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