

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/23

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2123

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2123**

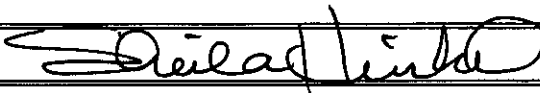
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 16, 2007**

Recorder Job Number: **1221 [m 14:23]**

Committee Clerk Signature



Minutes:

Anne Jorgenson Green – Staff Council with WFS

TESTIMONY #1

Proposes several changes. Covers testimony.

1221 tape ends, continues on 1222

S Klein: See we've had a lot of discussion on the newspaper issue. How do you intend to rate these folks? If we bring them under WSI, we need to know what kind of risk they are. Are we looking that we may be a percentage rate too high?

A Green: Currently there is a composite rate: 43:10 entitled "Printing and Publishing" that rate classification includes a number of risks. There is a rate classification. Some industries that are combined for rate classification and rate making. Printing and publishing is one of those. Under that classification, [lists classifications 4:30] Current rate \$1.28 per \$100 of reportable payroll.

S Hacker: Clarification purposes, when you take out the max rate, there will only be a minimum rate now.

A Green: Yes, that's correct.

S Hacker: How would this real-life affect...[example of newspaper girl m 5:43] Would they all become employees then of the newspaper?

A Green: That ultimately is the decision of the owner of the newspaper, the newspaper publisher. Those folks in management would make the decision who are the employees of the newspaper route. Who is it who they have hired to deliver those newspaper.

S Hacker: So then someone who delivers a newspaper has to be an employee? Or can they just be a sub-contractor?

A Green: Under current law there is an exception. Newspaper carriers are not employees. Proposed legislation acknowledges that that relationship between newspaper delivery and publisher is integral of the business of a newspaper owner. Delivery people are an intergral for newspapers, if they didn't have them, readership would decline. Integration is one of the factors that is considered critical in the determination of employer/employee relationship.

S Klein: Aren't they independent contractors?

A Green: ND Work Comp law presumes employment unless there is the ability to prove that an individual is an independent contractor. It's difficult to "parse out" whether an individual delivers two papers.

S Andrist: Newspaper deliveries are independent contractors, sometimes it's a family operation. What responsibility does the publisher got for paying premiums if there are several people involved in a route? What happens when "Mom" is going to be employee and then Billy falls off his bike on Saturday? Does he get coverage? How are you going to convert this to employee status when it's very obvious they are independent contractors.

A Green: Responsibility of Newspaper publisher is exactly the same, as it is to UPS driver and UPS distribution. Same as person driving an 18 wheeler and the person directling a certain route to a certain place. Same as person at a pizzeria and delivers it to your home. Johnny falls off his bike while delivering paper, or Mom slips on ice, mom might have benefit of a medical coverage which might or might not go along with an independent contractor

relationship, but Mom wouldn't have the benefits of Work comp law, i.e. disability benefits that would go along with that relationship.

[m 9:49 Examples, explaining]

Coverage under the work com, disability, wage loss....

S Andrist: I understand this, but if you have a family newspaper out there, the newspaper publisher makes a contract with Mom, so the publisher pays the premium, and Billy falls off his bike while delivering papers. Does he have any coverage?

A Green: that would be a decision that would have to be made on the facts of the case. If he was an employee....

S Andrist:but he's a substitute....

A Green: If he is an employee of the newspaper, coverage would flow.

S Behm: This is an extra burden on our papers. Each paper has their own operation, it is unfair to weekly papers. Why would he need to be covered by Workmen's Comp?

A Green: [m 13:20 – uses example] Rural ND contracts. Talks about large trucking companies. Those mail carriers are covered under rate classification 7215 is significantly higher than the \$1.28 per hundred that we're talking about.

S Behm: I've had numerous emails that says to defeat the bill.

S Wanzek: There are other parameters. "Who owns the bike?" "Who owns the auto?" Who's putting gas in it? Who's delivering the mail. UPS owns their own trucks.

A Green: True. There are factors determining independent contractors and who is an employee varies on all of those factors. Pizza delivery people get mileage. With papers, they get reimbursement. Question is how integrated are they to delivery?

S Potter: Watchword to never pick a fight with people who buy ink by the barrel, so after we kill your changes in section 1, is there anything else important in the rest of the bill?

S Klein: We will give it full and fair hearing.

A Green: The remainder of the bill are changes that WSI seeks.

S Klein: What's the maximum limit? Isn't there a cap?

A Green: The maximum is Plus 75% of base premium.

Support? Opposition?

Bill Shalop – ND Chamber of Commerce – *In Opposition*

Opposed to several sections on independent contractors. How integrated is the work to the business, I can argue that the service that I have my office buildings come in and change lightbulbs are extremely integrated to my business. Without lights, no one in the office is going to function. They are independent contractors.

2nd Part, #4, remember the negative fund employers that this is an "insurance fund." A cap is a pooling decision. [m 20:00] Set at 75% if to be set to 100%, that is what it should be raised, rather than a cap completely, causing some problems.

James Boberg – Circulation Director of Forum of Fgo-Mhd - *In Opposition*

TESTIMONY #2 [M 22:00-24:21]

Newspaper carriers are independent contractors.

S Hacker: The insurance you brought up, is the Forum the only place that offers that or do lots of papers offer that.

J Boberg: No, it's commonplace It's 3rd party vendor.

S Hacker: You know about the cost? How would it affect the gal with 2 kids?

S Wanzek: As an individual, they assume full responsibility or risk?

J Boberg: They understand.

S Wanzek: So they can get their own Insurance, auto insurance.

Barb Olson – with Fargo Forum - *In Opposition*

Adult policy is \$8.80 per month

Child policy \$2.60 per month

It is accident insurance.

S Andrist: Can you buy a family policy?

B Olson: Yes, substitutes would also be covered.

Jack McDonald – ND Newspaper Association - *In Opposition*

TESTIMONY # 3

I think this is a solution looking for a problem. [m 29:03]

Eliminate Section 1 from the bill. See bottom of Page 2, takes out the section 1 from the bill.

Attached is March 2000 opinion by Administrative Law Judge on the point. Page 16 reflects the opinion, page 4 is the opinion of the court on newspaper carriers.

Leroy Volk – [m 31:20] *In Opposition*

I have a friend who delivers papers, they come from Fargo. They delivery papers for several cities, who are they going to get paid by. I think this is a pork belly.

More Opposition? Neutral?

Vern Hicks - Local #566 Steel Workers – *In Opposition*

Need to go back into records, in 1995 I testified, that's when Worker's Comp back then and that's when they put them IN as Independent Contractors.

CLOSE 2123

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2123 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 17, 2007**

Recorder Job Number: **1325**

Committee Clerk Signature



Minutes:

S Klein: This bill is about the newspaper issue on WSI

Discussion: [General suggestion to kill the whole bill]

S Andrist: Move

S Klein: We are having amendments drafted. Strikes the language on 2 and removes lines- in reference, it strikes the whole first section of the bill. [m 10:00 explains what is removed from the bill] All of section 1. Spoke with LC and told would take out just that section.

S Potter: Aren't they taking out existing law?

S Wanzek: All we're doing is removing Section 1 which would leave the law as it is.

S Klein: Newspaper association came in, could see no compelling reason...

S Heitkamp: It's an old fight. If there was an article in the paper against WSI, now the paper carriers would have to be covered by WSI.

Motion from Heitkamp

Second from Wanzek

For Amendment 78173.0101

Roll Do Pass 7-0 SB 2123

Do Pass as Amended

Motion from Wanzek

Second from Hacker

Roll – Do Pass 7-0 SB 2123

Carrier Andrist

S Klein: ___they don't support section 1, ...

Motion Withdrawn for a Do Not Pass

Now Do Pass as Amended from S Wanzek

Second S Hacker

S Potter: One of the reasons I was suggesting a "Do Not Pass" is my annoyance with WSI at bringing in bills that are so totally unrelated in their sections, this may be a way to say "Don't do that."

S Heitkamp: I wasn't here, why is this a good bill?

S Klein: Because Dave Kemnitz did not speak against it. I'm not saying Dave was in opposition, but they were neutral, they probably could have incorporated it in another bill.

S Heitkamp: More reflective of whose using WSI, the benefits. Maybe the employer who provides more of a safe environment results in lower usage of WSI benefits will get more of a benefit.

S Andrist: I'm probably going to vote for it because most of the rest of it is mostly OK. I was inclined to vote for the "Do Not Pass" because I was offended that they presented the first section without researching how it applies without studying the issue, I think we deserve better. They couldn't answer their questions, the chief witness just blew smoke at the questions we asked her, I think we ought to expect better of the agency.

S Behm: I totally agree. It seemed like it come from under the table somewhere.

S Klein: Roll for Do Pass as Amended on SB 2123

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution No. **SB 2123 B**

Hearing Date: **January 17, 2007**

Roll 7-0 Do Pass

Carrier: Andrist

S Andrist: You know how much I'm going to get ridden. This week?

[ends m 19:34)

FISCAL NOTE

Requested by Legislative Council

01/24/2007

Amendment to: SB 2123

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 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 engrossed bill clarifies certificate of coverage language; allows WSI to reveal those employers who are in a delinquent or uninsured status; removes the 75 percent experience rate surcharge cap; and clarifies risk management program language.

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
2007 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed SB 2123

BILL DESCRIPTION: Employer Services

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 engrossed bill clarifies language permitting WSI to indicate on a certificate of coverage that the policyholder does not have employees; allows WSI to reveal those employers who are in a delinquent or uninsured status; removes the existing 75 percent experience rate surcharge cap and establishes an effective date; and clarifies language to accommodate changes to risk management programs.

Rate Level Impact: The elimination of the 75% experience rate cap will increase premium income from employers that have generated poor experience in the past. Although not material, future statewide rate levels will be established with an offset to reflect this additional income.

DATE: January 24, 2007

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.

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-3760	Date Prepared:	01/24/2007

FISCAL NOTE
Requested by Legislative Council
01/02/2007

Bill/Resolution No.: SB 2123

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 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 legislation requires coverage for newspaper carriers; clarifies certificate of coverage language; allows WSI to reveal those employers who are in a delinquent or uninsured status; removes the 75 percent experience rate surcharge cap; and clarifies risk management program language.

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
2007 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: SB 2123

BILL DESCRIPTION: Employer Services

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 removes the exemption from coverage for newspaper delivery personnel; clarifies language permitting WSI to indicate on a certificate of coverage that the policyholder does not have employees; allows WSI to reveal those employers who are in a delinquent or uninsured status; removes the existing 75 percent experience rate surcharge cap and establishes an effective date; and clarifies language to accommodate changes to risk management programs.

Rate Level Impact: Requiring coverage for newspaper delivery personnel should not have an impact on statewide premium levels as premiums will be charged to cover the anticipated losses. The elimination of the 75% experience rate cap will increase premium income from employers that have generated poor experience in the past. Although not material, future statewide rate levels will be established with an offset to reflect this additional income.

DATE: January 12, 2007

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.

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-3760	Date Prepared:	01/12/2007

JB
1-18-07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2123

Page 1, line 1, remove "subdivision b of subsection 16 of section 65-01-02 and"

Page 1, line 3, remove "the definition of employment,"

Page 1, remove lines 8 through 24

Page 2, remove lines 1 through 17

Page 6, line 11, replace "4" with "3"

Renumber accordingly

Date: 1-17-07

Roll Call Vote: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2123

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number DO PASS
18173.0101 AMMENDMENTS

Action Taken _____

Motion Made By Nutkamp. Seconded By Wanzek.

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur	✓	
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7-0. No _____

Absent _____

Floor Assignment _____

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

Date: 1-17-07

Roll Call Vote: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2123

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number ~~DO NOT PASS~~ DO PASS

Action Taken WANZEK AR AMM.

Motion Made By POTTER Seconded By ARTHUR BEHM HACKER

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur	✓	
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7-0. No _____

Absent _____

Floor Assignment ANDRIST.

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

REPORT OF STANDING COMMITTEE

SB 2123: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2123 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subdivision b of subsection 16 of section 65-01-02 and"

Page 1, line 3, remove "the definition of employment,"

Page 1, remove lines 8 through 24

Page 2, remove lines 1 through 17

Page 6, line 11, replace "4" with "3"

Renumber accordingly

2007 HOUSE HUMAN SERVICES

SB 2123

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2123

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: 3934

Committee Clerk Signature

Stephanie N. Thomas

Minutes:

Chair Keiser opened the hearing on SB 2123.

Anne Jorgenson Green, WSI: See written testimony #1.

Rep. Amerman: In section 1 where the proposed language permits the organization print a certificate, identify the account, one which has no employees. If I have a business, and I have no employees, what do I pay a month?

Anne: Typically, coverage is mandatory if you have employees, but if you maintain optional coverage on yourself, you would still be issued a certificate of premium payment that you as the business owner choose to cover yourself.

Rep. Keiser: What happens to the employer, the owner? Do they automatically have coverage, or do they have to take the actual coverage?

Anne: Coverage for an owner is optional. That's not mandatory coverage. If I own my own business, I don't have to ensure myself, or my officers, or my spouse, or in some cases my children with workers compensation coverage.

Rep. Nottestad: In section 2, on disclosing confidential information, how do they find out now that this be the case?

Anne: A contractor could currently call WSI and require into the status of a contractor, or a subcontractor. This proposed change would permit us to release that information in the aggregate, in other words more than one contractor, or subcontractor.

Rep. Nottestad: In other words you are saying that could be sent out in a memo to all concrete contractors that these small ones are not in compliance, or what means of distributed do you have in mind?

Anne: Arguably yes, it could be disseminated in that respect. The purpose behind this particular amendment is contemplate the program that is being worked on within WSI to permit a contractor to go online and look up a particular subcontractor, to look up a particular employer, and find out if that particular subcontractor is insured in the state of ND.

Rep. Nottestad: Is this type of system, or method used in other states, or is this something that you people here are using as a trial to lute on so to speak?

Anne: I can't speak to all jurisdictions, but I do know that Brick Street Mutual which is the insurer in West Virginia has a program very similar to that.

Rep. Dosch: On section 3, can you give me some examples, or data on the affect that this would have on a various size employers in the state?

Anne: I don't have the appropriate answer for you right now, but I can get that to you.

Rep. Dosch: On section 4, dealing with your premium discounts for your written management program, that program has already been changed, hasn't it?

Anne: Yes.

Rep. Dosch: What are we changing here?

Anne: We're changing the language on the Risk Management Program. We're taking out the requirement that certain employers be involved, or be enrolled in the Risk Management Program.

Rep. Dosch: Do you have information or data on the success of this program since it has been changed not only from the major problem accounts, but the impact on small and medium employers, the majority of those which have now lost their premium, their discount?

Anne: Those numbers are just beginning to role in those programs, the RMP Plus, the Risk Management Plus, and the SOP, the States Outreach Program. As those two programs begin to work through their first full year of premium, we're beginning to see those numbers. My understanding is that the vast majority of employer accounts, when they are renewed are achieving that discount as we move into their second year of participation in that program.

Rep. Dosch: When those numbers become available, I think it's important that this committee receive them, because just from my own standpoint, and talking to similar employers such as myself that the majority of those are losing this discount, because they've been good in the past, and because they aren't getting better that now all of a sudden they drop. You're simply looking at the results based, and I think that is a serious flaw with that program strictly looking at results based, and not the preventative side like you were doing in the past.

Anne: I'll see that you get those numbers.

Sandy Blunt, WSI: We're about the 1st 7 months data. I really want to talk about why this program is placed, and I will tell you the program has been tremendously successful. Before we had a program where we would have 3,000 or less employees, and we would collect \$5 million in premium from all employers to give to 3,000. Now what we're talking about is we do not collect premiums from everybody, we use it for the reserves out of part of our investment. Out of that we expect to get up to \$25 million; in fact we had doubled, and maybe even tripled the \$5 million in dividend credits for performance. Before this program, we were seeing a tread upward consistently upon claims. We have now seen it peak out, and is possibly dipping. The ratio that we see of the most severe claims per 100 is continuing to go down.

What this program says is instead of just collecting \$5 million and giving it to 3,000 people, every employer in the state that is above minimum is now automatically enrolled in the program, and we will partner with you. If you do these things, they work. If you continue to have claims in frequency, or severity lost days off, we're not going to keep giving you a discount, because you filled out 10 steps on paper. What we were doing was giving discounts to people. It was a phenomenal program, it was a great start, and it's the work of the legislature from something we didn't have. The difficulty is human nature, just like when you work, you chop wood, you start chopping wood and your hands hurt something fierce, then you eventually get a callus, and you don't even notice it. The same things happen behaviorally. Every 5 to 7 years you have to take programs, because they become a complacent pattern for people, and you have to hang that ball. What we say is if you have a reduction in frequency, meaning number of claims by 10%, we'll give you a discount. Small and large, we're giving out more money than we ever have for people remaining, and we're actually seeing the larger companies, and people who are having more severe injuries that are dropping, and they're coming in and telling us I would have never done this had you not held me accountable. I didn't like you, I don't like it, but it works.

Rep. Keiser: Are you still allowing mulligan?

Sandy: Those are concerns that you and Rep. Dosch had, and both came in and said look I like the concept, but it's unfair for those people that might have an injury or two. We've created a test; it's called a second test. What we do is we look at those industry classifications, and we're reporting them to unemployment right now. What it says is its grouping you already by what type of industry you are. We load that data, and then what we find out is per million dollars in payroll, how many injuries are in trucking, healthcare, and then whatever industry you're in, if you're in the top 1/3 of that, and even if you do have claims, but

your injury is per million dollars of payroll are lower than that number even while you're adding some in the frequency, you automatically are going to get that. That is a direct result of Chairman Keiser and Rep. Dosch coming to the table after the bill and saying look, this is an unintended consequence, we didn't mean it, and people have been passing that second test.

Rep. Keiser: Then with groups that had 0 injuries, or 1-2 injuries, how do you deal with that?

Sandy: In your first year when you're looking at that comparatively, most of them are automatically qualifying.

Rep. Keiser: In the bill, we're taking Roughrider off the requirement to do the safety program as I read this.

Anne: Roughrider will continue to be an automatic participating RMP plus. The governments that Sandy referenced, they will continue to participate as all other employers in the state. We took out that reference to risk management for them.

Rep. Keiser: When we eliminate the maximum rate cap, do we provide enough for employers to buy their way down? Do they have an opportunity to come back to WSI and say look at my experience rating, I want to self insure a little bit, and I want to pay a deductible, do you allow that?

Anne: Currently, it's not my understanding that we currently are looking at that possibility. Statutory ability exists within a section of 55.04 that would permit the exploration of that kind of a program.

Rep. Nottestad: Why was Roughrider Industries excluded from the risk management?

Anne: Roughrider Industry has not been excluded from the risk management program. That language has been struck from that particular section, but as with all employers in the state, the risk management programs that existed a year ago have been replaced with RMP Plus, and SOP. This particular section was inadvertently not excluded last session.

Rep. Keiser: Roughrider attempted to get into WSI coverage for about 3 or 4 sessions. We had a real concern about the exposure to the sole fund, and when we did allow Roughrider in, it was under two conditions. One, that they had to belong to the safety program, it wasn't optional as it was for all other industries. Two, they basically had to have somewhat of a separate account with risk management from the state involved in participation in this account. So, this is based on the new approach, and based on their amazingly successful performance out there. It is appropriate to take that requirement out at this time, I would say.

Bill Shalhoob, ND Chamber of Commerce: Support SB 2123. See written testimony #2.

Rep. Ruby: I don't know if you talked to some of your members to find out how many of them are affected by this? Do you have any idea how many employers in the state get this cap?

Bill: There are approximately 40 employers in the state that are at this level is what I was told. The reason that we supported moving the cap is that some of them are so far over there is no incentive for them to do anything, and so unless you start to raise the rate, all they're going to do is keep dragging down the other 20 some thousand members in there. The chambers position has been that positive employers should be rewarded and negative balance employers, to the extent that understanding this is an insurance pool, and we know how an insurance pool works, but on unemployment and this we feel we should achieve balance within this. Balance means having negative employers pay more, and that's what this would do, instead advising them to actually move forward to becoming more positive.

Hearing closed.

