

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2389

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2389

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2389**

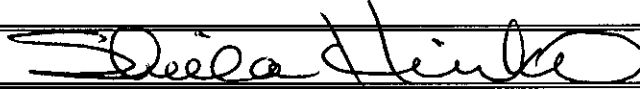
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 6, 2007**

Recorder Job Number: **2903**

Committee Clerk Signature



WSI Impairment Awards - PPI

Dave Kemnitz – Pres. NDAFLCIO - in Favor

TESTIMONY # 1 [went over testimony]

S Klein: Can you tell us what we're doing here, what would the bill do?

D Kemnitz: What's the harm, the wrong and will it fix it. It could go either way. PPI is a "one time" or adjustment. What does it do? Lines 6-8 addressed the situation. Not a periodic payment, it is a one time payment. [Covered conversions, refers to bill, converts to hard dollar amount]

S Klein: If you have a PPI award and get a dollar amount, Social Security has offset that amount. We're addressing the federal issue to have something to stand on if it went to a court case.

D Kemnitz: You got it.

S Hacker: If it is declared a permanent impairment, there used to be a time line, you're re-evaluated and go into rehab, etc. and you find that you don't have that same amount of impairment anymore, it's less, so the amount that's paid out up front, but you're no longer in that classification, what happens then?

D Kemnitz: I would refer to the bureau, if you have an award for an impairment at that time, you have improved then, to get a PPI you have to have examinations and tests and test of impairment is quite right.

S Potter: There's no actual difference in the way it's paid out, right? We're just writing into the law this way, either today we're cutting a check for \$200,000 to somebody or we're not going to be cutting a check for \$200,000 after this. How does that work anyway? Weekly, monthly?

D Kemnitz: It is a one time payment, not periodic. It is for Permanent Partial Impairment and goes by the % when awarded.

S Potter: 85% - \$90,000 is that monthly or just one time?

D Kemnitz: One time, but now Social Security off sets the amount.

S Wanzek: In the scenario, if this passes, has Social Security commented on this? Would they do it differently?

D Kemnitz: this is to stop the offset. Social Security thinks it's timely. Its not over a period of time, it is just one time.

Favor?

Bill Shalhoob – ND Chamber of Commerce - In Favor

TESTIMONY # 2 [covered testimony]

This changes PPI awards.

S Heitkamp: Does the bill really do anything?

B Shalhoob: It will do something, it allows the people to keep their more of their money.

Sebald Vetter – In Favor

[Gave examples of person who got PPI and then found out they lost a lot of money from Social Security. They had to pay income tax on the money.]

NEUTRAL?

Tim Wahlen – Staff of WSI - Neutral

TESTIMONY # 3 [went over testimony]

S Hacker: The information from the schedule needs to be updated, you're saying it could be updated every 2 years.

T Wahlen: It could become problematic with another source.

S Heitkamp: In reference to make sure it is correct, can you draft an amendment?

T Wahlen: Yes

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2389 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 7, 2007**

Recorder Job Number: **3021**

Committee Clerk Signature

Relating to PPIs Permanent Impairment Awards

S Hacker: Concern was the schedule is old.

Stephanie – Intern – has the sheet to update, getting ready to pass out.

S Potter: The statute as I read it, line 22, first page, "they're going to do it," [WSI] to order them to update that schedule annually. The legislature could review it but wouldn't have to as they are supposed to annual adjust it on average weekly rate.

S Hacker: Question is on appropriations.

S Behm: Should this be self funding?

S Klein: Every year the amount is adjusted for inflation and it changes. The issue is you get the settlement, get impairment award and Social Security says, "You got the impairment award, we're not going to send you the amount of money you had coming if you hadn't gotten that award." Are we going to be able to do anything? I think from 2 of the presenters we heard, "Hopefully." It is a Conrad/Dorgan issue as it needs to be addressed with the Social Security system in Washington and that's who we're fighting with. We need to update the chart to get it to the higher standard that would be accepted by everybody.

S Potter: They said, "We already do this," so there is no impact on the funds, we're gaming the Social Security system based on the court case. "Because you do it weekly, it must be a weekly payment." So now we're not basing it on weeks anymore.

S Hacker: Now we listing a lump sum dollar amount.

S Behm: So it goes from "weeks" to "dollars" now?

S Klein: Basically yes.

S Potter: By adjusting it on the currently weekly average, it is still based on those averages.

S Wanzek: When Social Security looks at it with the weak language in there that it's a replacement of lost earnings, VS a lump sum injury award. Can we move to adopt the amendments, I think we all understand them.

Motion to Move Amendments by S Wanzek

Second by S Hacker

Vote for Do Pass Amendments: 5 – 0 – 1 Passed [S Heitkamp not present]

Motion to Do Pass as Amended by S Potter

Second by S Wanzek

Vote for Do Pass As Amended: 6 – 0 – 1 Passed

FISCAL NOTE
Requested by Legislative Council
03/06/2007

Amendment to: Engrossed
 SB 2389

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 with amendments adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of a multiplier instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

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 2389 w/ House Amendments

BILL DESCRIPTION: Permanent Partial Impairment (PPI) Awards

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 with amendments adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of a multiplier instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

FISCAL IMPACT: Based on our understanding, the engrossed bill with amendments is not intended to change the existing PPI award payment structure, but rather express the amount of the awards within the structure in terms of a multiplier versus number of weeks. To the extent our understanding is correct; the proposal should have no impact on statewide reserve and premium rate levels.

DATE: March 6, 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:	03/06/2007

FISCAL NOTE
 Requested by Legislative Council
 02/12/2007

Amendment to: SB 2389

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 adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of dollars instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

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 2389

BILL DESCRIPTION: Permanent Partial Impairment (PPI) Awards

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 adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of dollars instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

FISCAL IMPACT: Based on our understanding, the engrossed bill is not intended to change the existing PPI award payment structure, but rather express the amount of the awards within the structure in terms of dollars versus number of weeks. To the extent our understanding is correct, the proposal should have no impact on statewide reserve and premium rate levels.

DATE: February 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:	02/12/2007

FISCAL NOTE
 Requested by Legislative Council
 01/23/2007

Bill/Resolution No.: SB 2389

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 proposed legislation adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of dollars instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

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 2389

BILL DESCRIPTION: Permanent Partial Impairment (PPI) Awards

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 adds intent language relating to PPI awards and re-categorizes the awards within the PPI schedules in terms of dollars instead of weeks in an attempt to prohibit any offsets by Social Security on these types of awards.

FISCAL IMPACT: Based on our understanding, the proposed legislation is not intended to change the existing PPI award payment structure, but rather express the amount of the awards within the structure in terms of dollars versus number of weeks. The conversion of the PPI weeks to dollars within the PPI schedule portion of the legislation appears to have used last year's PPI benefit rate and thus, PPI award amounts may have been inadvertently understated. Assuming the conversions are corrected to reflect existing PPI benefit levels, the proposal should have no impact on statewide reserve and premium rate levels.

DATE: February 2, 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:	02/02/2007

Date: 2-7-07

Roll Call Vote: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2389

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amme

Motion Made By Wanzek Seconded By Hauber

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

Total Yes 5 No 0

Absent 2

Floor Assignment _____

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

Date: 2-7-07

Roll Call Vote: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2389

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 2389 DO PAA.

Motion Made By Potter Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Art	✓	
Senator Hacker, Nick, VC	✓		Senator Heitkamp, Joel	✓	(LATE VOTE)
Senator Andrist, John	NP		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 5 No 0

Absent _____

Floor Assignment Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2389: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2389 was placed on the Sixth order on the calendar.

Page 4, line 7, replace "\$1,830" with "\$1,890"

Page 4, line 8, replace "\$1,830" with "\$1,890"

Page 4, line 9, replace "\$2,745" with "\$2,835"

Page 4, line 10, replace "\$2,745" with "\$2,835"

Page 4, line 11, replace "\$3,660" with "\$3,780"

Page 4, line 12, replace "\$3,660" with "\$3,780"

Page 4, line 13, replace "\$4,575" with "\$4,725"

Page 4, line 14, replace "\$4,575" with "\$4,725"

Page 4, line 15, replace "\$5,490" with "\$5,670"

Page 4, line 16, replace "\$5,490" with "\$5,670"

Page 4, line 17, replace "\$6,405" with "\$6,615"

Page 4, line 18, replace "\$6,405" with "\$6,615"

Page 4, line 19, replace "\$7,320" with "\$7,560"

Page 4, line 20, replace "\$8,235" with "\$8,505"

Page 4, line 21, replace "\$9,150" with "\$9,450"

Page 4, line 22, replace "\$10,980" with "\$11,340"

Page 4, line 23, replace "\$12,810" with "\$13,230"

Page 4, line 24, replace "\$14,640" with "\$15,120"

Page 4, line 25, replace "\$16,470" with "\$17,010"

Page 4, line 26, replace "\$18,300" with "\$18,900"

Page 4, line 27, replace "\$20,130" with "\$20,790"

Page 4, line 28, replace "\$21,960" with "\$22,680"

Page 4, line 29, replace "\$23,790" with "\$24,570"

Page 4, line 30, replace "\$25,620" with "\$26,460"

Page 4, line 31, replace "\$27,450" with "\$28,350"

Page 5, line 1, replace "\$29,280" with "\$30,240"

Page 5, line 2, replace "\$31,110" with "\$32,130"
Page 5, line 3, replace "\$32,940" with "\$34,020"
Page 5, line 4, replace "\$34,770" with "\$35,910"
Page 5, line 5, replace "\$36,600" with "\$37,800"
Page 5, line 6, replace "\$38,430" with "\$39,690"
Page 5, line 7, replace "\$40,260" with "\$41,580"
Page 5, line 8, replace "\$42,090" with "\$43,470"
Page 5, line 9, replace "\$43,920" with "\$45,360"
Page 5, line 10, replace "\$47,580" with "\$49,140"
Page 5, line 11, replace "\$51,240" with "\$52,920"
Page 5, line 12, replace "\$54,900" with "\$56,700"
Page 5, line 13, replace "\$58,560" with "\$60,480"
Page 5, line 14, replace "\$62,220" with "\$64,260"
Page 5, line 15, replace "\$65,880" with "\$68,040"
Page 5, line 16, replace "\$69,540" with "\$71,820"
Page 5, line 17, replace "\$73,200" with "\$75,600"
Page 5, line 18, replace "\$76,860" with "\$79,380"
Page 5, line 19, replace "\$80,520" with "\$83,160"
Page 5, line 20, replace "\$85,095" with "\$87,885"
Page 5, line 21, replace "\$89,670" with "\$92,610"
Page 5, line 22, replace "\$94,245" with "\$97,335"
Page 5, line 23, replace "\$98,820" with "\$102,060"
Page 5, line 24, replace "\$103,389" with "\$106,785"
Page 5, line 25, replace "\$107,970" with "\$111,510"
Page 5, line 26, replace "\$112,545" with "\$116,235"
Page 5, line 27, replace "\$117,120" with "\$120,960"
Page 5, line 28, replace "\$121,695" with "\$125,685"
Page 5, line 29, replace "\$126,270" with "\$130,410"

Page 5, line 30, replace "\$130,845" with "\$135,135"

Page 5, line 31, replace "\$135,420" with "\$139,860"

Page 6, line 1, replace "\$139,995" with "\$144,585"

Page 6, line 2, replace "\$144,570" with "\$149,310"

Page 6, line 3, replace "\$149,145" with "\$154,035"

Page 6, line 4, replace "\$153,720" with "\$158,760"

Page 6, line 5, replace "\$158,295" with "\$163,485"

Page 6, line 6, replace "\$162,870" with "\$168,210"

Page 6, line 7, replace "\$167,445" with "\$172,935"

Page 6, line 8, replace "\$172,020" with "\$177,660"

Page 6, line 9, replace "\$176,595" with "\$182,385"

Page 6, line 10, replace "\$181,170" with "\$187,110"

Page 6, line 11, replace "\$185,745" with "\$191,835"

Page 6, line 12, replace "\$190,320" with "\$196,560"

Page 6, line 13, replace "\$194,895" with "\$201,285"

Page 6, line 14, replace "\$199,470" with "\$206,010"

Page 6, line 15, replace "\$204,045" with "\$210,735"

Page 6, line 16, replace "\$208,620" with "\$215,460"

Page 6, line 17, replace "\$213,195" with "\$220,185"

Page 6, line 18, replace "\$217,970" with "\$224,910"

Page 6, line 19, replace "\$222,345" with "\$229,635"

Page 6, line 20, replace "\$226,920" with "\$234,360"

Page 6, line 21, replace "\$231,495" with "\$239,085"

Page 6, line 22, replace "\$236,070" with "\$243,810"

Page 6, line 23, replace "\$241,560" with "\$249,480"

Page 6, line 24, replace "\$247,050" with "\$255,150"

Page 6, line 25, replace "\$252,540" with "\$260,820"

Page 6, line 26, replace "\$258,030" with "\$266,490"

Page 6, line 27, replace "\$263,520" with "\$272,160"

Page 6, line 28, replace "\$269,010" with "\$277,830"

Page 6, line 29, replace "\$274,500" with "\$283,500"

Page 7, line 7, replace "\$11,895" with "\$12,285"

Page 7, line 8, replace "\$5,124" with "\$5,292"

Page 7, line 9, replace "\$7,320" with "\$7,560"

Page 7, line 10, replace "\$5,124" with "\$5,292"

Page 7, line 11, replace "\$4,026" with "\$4,159"

Page 7, line 12, replace "\$5,490" with "\$5,670"

Page 7, line 13, replace "\$4,026" with "\$4,159"

Page 7, line 15, replace "\$2,562" with "\$2,646"

Page 7, line 16, replace "\$3,660" with "\$3,780"

Page 7, line 17, replace "\$2,928" with "\$3,024"

Page 7, line 18, replace "\$2,928" with "\$3,024"

Page 7, line 19, replace "\$2,196" with "\$2,268"

Page 7, line 21, replace "\$42,822" with "\$44,226"

Page 7, line 22, replace "\$35,685" with "\$36,855"

Page 7, line 23, replace "\$27,450" with "\$28,350"

Page 7, line 24, replace "\$5,490" with "\$5,670"

Page 7, line 25, replace "\$3,294" with "\$3,402"

Page 7, line 26, replace "\$2,196" with "\$2,268"

Page 7, line 27, replace "27,450" with "\$28,350"

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2389

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2389

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: 02-28-2007

Recorder Job Number: 4063

Committee Clerk Signature

Kevin M Thomas

Minutes:

Chairman Keiser opened the hearing on SB 2389.

Sen. Nething introduced the bill.

Sen. Nething: I introduced SB 2389 at request with the understanding that there is a better way to deal with the awards for permanent impairment and I want to try to help that process. I can tell you I had to use one of my bills that you use at the end because we couldn't get it prepared in time because of the complicated nature of the subject and I am guessing for those of you who have had a chance to glance through it, you would agree with that. The Senate did come up with some amendments to it that in their opinion were improvements and my opinion as well. I am going to let people that know a lot more about the details handle it.

Rep. Keiser: What this does is instead of taking it to a basing it on the average weekly wage and having a schedule based on that, you still have a schedule based on the time, but it is starting at a specific point and putting a dollar with kind of a colon?

Sen. Nething: Yes, that's right.

David Kemnitz, ND AFL-CIO, spoke in support of the bill.

Kemnitz: I looked in the latest book that gives the various support and jurisdictions within states and under jurisdictions in which worker's compensation laws apply to domestic service?

See handouts A & B from Kemnitz.

Rep. Keiser: On page two of the bill, as I read through this, we have kind of a colon built in to increase it each year, but as sure as the average weekly wage goes down, the benefits have to stay the same. That seems to be kind of unidirectional.

Kemnitz: I would have to say yes, that is how I read it also. I am not sure that it would be enough to make a substantial difference to the bureau if they did move down slightly.

Bill Shalhoob, ND Chamber of Commerce spoke in support of the bill. See written testimony. There were no questions from the committee.

Tim Wahlin, Staff Counsel for WSI spoke neutrally on the bill. See written testimony and attached proposed amendment.

Rep. Ruby: I am trying to understand why this would be affected federally. According to your testimony, the reason that it affected the federal person is because it is assumed to be a weekly award and it really wasn't that was just a calculation. Is that correct?

Wahlin: At first I agreed that is what was contemplated in the initial decisions. The 1999 decision by the court of appeals quite frankly I am impressed with because they dug into what are statute was and got it right and whenever somebody gets that right, it impresses me. So I think I am concerned that even with the changes as proposed is not going to affect the ultimate determination in the federal court system because in the 1999 statute they actually recognized that while it is calculated weekly, it is not really a weekly benefit, in fact it is a one time lump sum benefit. Then they went further and said because some of the states have so many conflicting or different systems because the federal commissioner says offset, we are offsetting and we don't want dates to be moving language around in avoidance of the offset.

Rep. Ruby: So your position is you are in favor of the concept of the bill and your amendments to correctly achieve that?

Wahlin: We are strongly in favor of the amendments. Our amendments are simply there to get rid of any unintended consequences which will do damage. Ultimately whether or not the intent to avoid that federal offset is affective, I can't tell you.

Rep. Amerman: So I understand your amendments. The first one it says eight hundred and ninety dollars and then you say replace that with a multiplier of ten, is that ten weeks times one third of the average weekly wage or what is it?

Wahlin: In the old statute, it was multiplied by weeks. In an effort to get rid of the weekly language which was what the promoters of the bill wanted to do, we wanted to keep the calculation method but get rid of the reference to weeks so instead we changed that to a permanent impairment multiplier so that the formulas stay the same and we can still compare with all the awards and hopefully make that system fit with what the proponents of the bill want.

Rep. Amerman: Instead of having the solid amount of eighteen hundred and ninety dollars, you are using yours, is that comparable?

Wahlin: It is going to be exactly the same, you are correct.

Rep. Keiser: It is so complicated, so I am going to try to tell you what I do understand and then have you help me understand how this multiplier works. What we did with the formulas that both used the average weekly wage and then we said if we have this much injury and then we have ten weeks worth of dollars and if we have this injury you only get twenty weeks and fifty weeks and that worked because the average weekly wage went up in general so that provided the inflationary compo that was working and that was simple. The bill as presented to us, it said we're going to stop that and start now with putting dollar amounts in or level of injury and so it doesn't change much but you are getting a dollar amount instead of this calculation.

But for the future we are going to use the average weekly wage increase to adjust those dollar

amounts in the schedule. Now you guys have come forward with a multiplier times that. What am I multiplying?

Wahlin: You are multiplying that multiplier of ten which used to be ten weeks but now we are referring to it as a permanent kind of multiplier and multiplying that times one third of the states average weekly wage. The formula underlying the award has not changed. The awards under this amended system will be exactly the amount of the awards under the old system where simply moving language.

Rep. Keiser: By what?

Wahlin: You will multiply that multiplier, for example, times the, you are talking about the engrossed bill?

Rep. Keiser: I am talking about your amendments.

Wahlin: My amendments have a permanent impairment multiplier for example, let's go back to Rep. Amerman's eighteen hundred and ninety dollars is replaced with a permanent impairment multiplier of ten and that will be multiplied times one third of the state's average weekly wage which is currently at one hundred and eighty-nine dollars equals eighteen hundred and ninety dollars.

Rep. Keiser: So I just have to take that multiplier and multiply times the one third of the average weekly wage?

Wahlin: One third the average weekly wage. If you flip back to page four on line six and line twenty-nine, permanent impairment multiplier of fifteen hundred currently equates to two hundred and eighty-three thousand five hundred dollars, that is a one time lump sum award.

Rep. Keiser: So you are just substituting this multiplier? Now help me with why is that better?

Wahlin: The reason that is better is that we will have people who have received a permanent partial impairment rating. If their condition gets worse four or five years later we will re-rate

them and they may be entitled to a subsequent award. If they were this bad before now they are this bad, now they are entitled to the amount of weeks between those two levels. The problem occurs if we strip weeks and reference to weeks out of the statute, we are just using a dollar sum, now under a new system you mentioned average weekly wage is climbing, so the awards will be higher if we compare dollars to the previous dollars awarded. Everybody is going to get re-awarded their old awards the difference in increase. We are concerned that will happen. That's an unintended consequence which will increase all subsequent awards when we compare the old times the new. That is why we are proposing the new language. Let's keep it close to the old system so that we still have that comparison.

Rep. Keiser: I understand what the multipliers are and how it's going to work, but in the engrosses bill, the award is one hundred thousand today, five years from now, it's going to go up based on the average weekly wage. But so is the hiring, so if you are coming back and say you are now eligible for that difference, I get the difference, right?

Wahlin: The way our supreme court has interpreted our current TPI system, and what they have instructed us to do in comparing an old award with a new award puts us in an area where I am not just going to pay you the difference between what you did get and the increase to now. If we follow their logic through and this is an if, we are concerned that we are not going to give them the difference between the increase which is this, we are going to give them the increase plus whatever change there has been, that they have already received, so for example if they were awarded at one hundred and sixty-two dollars a week and now we are at one hundred and eighty-nine dollars a week, the way the system is right now is we are going to award them at one hundred and eighty-nine for these many weeks. If we compare dollars to dollars, I am awarding them this over here, plus I am awarding them twenty-six dollars per

