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Dorena G. Ballantyne
Operator's Signature

10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1149

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Dorena G. Baller
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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1149

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/21/03

Tape Number	Side A	Side B	Meter #
1		x	15.0-42.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chair Keiser opened the hearing on HB 1149, the purpose of which relates to WCB's subrogation interests and to declare an emergency. Rep. Froseth who is co-sponsoring this legislation introduced the bill to the committee.

Brent Edison, Executive Director and CEO of Workers Compensation Bureau appeared to testify in support of the legislation and to walk the committee through the various sections.

(See attached)

Rep. Ruby asked how the "opt out" in Section 1 differs from the "opt out of third party action" from last session. Edison replied that there is no opt out except in medical malpractice suits.

In response to Rep. Ekstrom's question for the emergency clause, Derek Watkins, OMB Risk Management, stated that Section 2 strikes the sunset clause and makes the consolidation of all state agency accounts a single workers comp account permanent law.

Marv Skar appeared in support of HB 1149.

As no one appeared in opposition to HB 1149, Chair Keiser closed the hearing.

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Donna Holbrook
Operator's Signature

1/21/03
Date

Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1149
Hearing Date 1/21/03

Prior to adjourning the morning's hearing session, Chairman Keiser called for committee work on HB 1149. Connie Sprynczynatyck will have the Attorney General's office and League of Cities to concur on the wording of the amendment she is preparing by Wednesday, 1/22/03.

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Deanna G. [Signature]
Operator's Signature

1/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1149

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/22/03

Tape Number	Side A	Side B	Meter #
2	x		23.7-44.7
Committee Clerk Signature <i>Judith Hanna</i>			

Minutes: Chairman Kelsner called for committee work on HB 1149.

Connie Sprynczynatyck, Executive Director of the ND League of Cities, distributed copies of the proposed amendment which addresses covering emergency or disaster volunteers under WCB protection after training and during implementation.. Community Emergency Responder Team members (Neighborhood Watch, for example) are also now included in this legislation. This amendment also extends the dates for which these changes will apply.

Rep. Froseth asked if training sessions are federally funded emergency programs due to 9/11 to which Sprynczynatyck explained the grant funds that were received for implementation of Community Emergency Response training was through supplemental appropriations of the 2002 budget. Replying to Rep. Froseth's question about responsibility for payment of premiums at WEB for this Sprynczynatyck replied that local jurisdictions organized into CERT Teams will pay on a per capita basis for adequate coverage. Brent Edison, Executive Director of Workers Compensation Bureau, stated that the Bureau stands in support of these amendments.

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Dorinda Ballereth
Operator's Signature

1/22/03
Date

Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1149
Hearing Date 1/22/03

Rep. Dosch questioned whether WEB is capable of covering any huge catastrophes or terrorist events to which Edison stated that the Bureau's has reinsurance policies as well as a recent federally funded stop gap legislation passed and signed by the President Bush. Responding to Rep. Klein, Edison stated that WEB has no objection to declaring the whole bill an emergency. Chairman Keiser asked that Klein's suggestion and the handwritten component be drafted and incorporated into the amendment. He also asked for a fiscal note from WCB. Chairman Keiser closed the committee work session for this morning so that the House IBL Committee can attend the JSND presentation.

Chairman Keiser called for continued committee work on HB 1149. Ann Jorgenson Green, Counsel for WCB/WSI, walked the committee through the proposed amendment. Jody Bjornson, WSI/WCB, took the podium to call attention to Section 15 that contains the emergency clause language suggested by Rep. Klein, who moved a do pass on adopted the amendments. Rep. Johnson seconded the motion. A voice vote carried this motion. Rep. Thorpe moved a do pass, seconded by Rep. Boe.

Results of the roll call vote were 12-0-2.

Rep. Nottestad will carry this bill on the floor.

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Operator's Signature

1/22/03
Date

FISCAL NOTE
 Requested by Legislative Council
 01/03/2003

Bill/Resolution No.: HB 1149

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 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.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

**NORTH DAKOTA WORKERS COMPENSATION
 2003 LEGISLATION
 SUMMARY OF ACTUARIAL INFORMATION**

BILL DESCRIPTION: Policyholder Services and Loss Prevention

BILL NO: HB 1149

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, 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 allows the director to opt out of participation in a third-party action; eliminates the sunset date for the consolidated state agencies account; clarifies information contained in employer certificates of coverage; allows for limited release of information from employer files; provides for personal liability of a partner in a limited liability partnership for failure to pay premiums; clarifies penalties for failure to secure workers compensation coverage; allows NDWC to impose a penalty for an employer's failure to pay medical assessment within 30 days from date of billing rather than 90 days; allows an employer with an NDWC approved risk management program to select a preferred provider to render medical treatment; clarifies coverage for volunteer disaster emergency trainees; and repeals Chapter 65-14 of the NDCC relating to hazardous substances.

FISCAL IMPACT: Anticipate no significant change to rate and reserve levels.

DATE: January 6, 2003

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.

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Dorinda Ball...
 Operator's Signature

10/2/03
 Date

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	John Halvorson	Agency:	NDWC
Phone Number:	328-3760	Date Prepared:	01/08/2003

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1/2/03
Date

38092.0101
Title.0200

Adopted by the Industry, Business and Labor
Committee
January 27, 2003

VR
1/28/03
182

HOUSE AMENDMENTS TO HOUSE BILL NO. 1149 IBL 1-28-03

- Page 1, line 10, replace "volunteer" with "emergency and"
- Page 1, line 11, replace "emergency trainees" with "volunteers"
- Page 9, line 3, after the comma insert emergency or disaster and overstrike "disaster emergency"
- Page 9, line 4, replace "trainee" with ", or community emergency response team member"
- Page 9, line 5, overstrike "person" and insert immediately thereafter "individual"
- Page 9, line 7, overstrike "person" and insert immediately thereafter "individual"
- Page 9, line 13, after the first quotation mark insert "emergency or disaster", overstrike "disaster emergency trainee", and overstrike "person" and insert immediately thereafter "individual"
- Page 9, line 14, overstrike the second "in"
- Page 9, line 15, overstrike "the event of an" and insert immediately thereafter "or is responding to a hazard, emergency, disaster, or"
- Page 9, line 19, replace "a" with "an emergency or disaster," and overstrike "disaster emergency trainee"
- Page 9, line 21, overstrike "an" and insert immediately thereafter "a hazard, emergency, disaster, or"
- Page 9, after line 21, insert:

"The term "community emergency response team member" means an individual registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

Upon request of the bureau, the disaster emergency organization of a municipality shall provide the bureau with its roster of registered community emergency response team members."

- Page 9, line 22, after "to" insert "emergency or disaster" and overstrike "disaster emergency"
- Page 9, line 23, overstrike "trainees"
- Page 9, line 29, remove "firefighters", overstrike "and" and insert immediately thereafter "firefighter, emergency or disaster", and overstrike "disaster emergency"
- Page 9, line 30, overstrike "trainees" and insert immediately thereafter ", and community emergency response team member"

Page No. 1

38092.0101

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Deanna Baller
Operator's Signature

1/28/03
Date

HOUSE AMENDMENTS TO HB 1149 IBL 1-28-03

2072

Page 9, line 31, after "firefighters" insert "emergency or disaster volunteers" and overstrike "volunteer disaster emergency trainees" and insert immediately thereafter "community emergency response team members"

HOUSE AMENDMENTS TO HB 1149 IBL 1-28-03

Page 10, line 9, after "to" insert "a" remove "firefighters", overstrike the second "and" and insert immediately thereafter "firefighter, an emergency or disaster", and overstrike "disaster emergency"

Page 10, line 10, overstrike "trainees" and insert immediately thereafter ", or a community emergency response team member"

Page 10, line 16, remove "firefighters"

Page 10, line 17, overstrike "and volunteer" and insert immediately thereafter "firefighters, emergency or" and overstrike "emergency trainees" and insert immediately thereafter "volunteers, community emergency response team members"

Page 10, line 20, remove "firefighters" and overstrike "and"

Page 10, line 21, overstrike "volunteer disaster emergency trainees" and insert immediately thereafter "firefighters, emergency or disaster volunteers, and community emergency response team members"

HOUSE AMENDMENTS TO HB 1149 IBL 1-28-03

Page 11, line 1, replace "Section 2 of this" with "This"

Renumber accordingly

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Operator's Signature

Date

10/2/03

Date: 1/22/03
 Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1149

House Industry, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number 38092.0101
10200

Action Taken Do Pass As Amended

Motion Made By Klein Seconded By Thorpe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep. Severson, Vice-Chair A			Rep. Ekstrom	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad A					
Rep. Ruby	✓				
Rep. Tieman	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Nottlestad

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

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Operator's Signature Dorena Hall Date 1/22/03

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 10:29 a.m.

Module No: HR-16-1171
Carrier: Nottestad
Insert LC: 38092.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1149: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1149 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "volunteer" with "emergency and"

Page 1, line 11, replace "emergency trainees" with "volunteers"

Page 9, line 3, after the comma insert "emergency or disaster" and overstrike "disaster emergency"

Page 9, line 4, replace "trainee" with "community emergency response team member"

Page 9, line 5, overstrike "person" and insert immediately thereafter "individual"

Page 9, line 7, overstrike "person" and insert immediately thereafter "individual"

Page 9, line 13, after the first quotation mark insert "emergency or disaster", overstrike "disaster emergency trainee", and overstrike "person" and insert immediately thereafter "individual"

Page 9, line 14, overstrike the second "in"

Page 9, line 15, overstrike "the event of an" and insert immediately thereafter "or is responding to a hazard, emergency, disaster, or"

Page 9, line 19, replace "a" with "an emergency or disaster" and overstrike "disaster emergency trainee"

Page 9, line 21, overstrike "an" and insert immediately thereafter "a hazard, emergency, disaster, or"

Page 9, after line 21, insert:

"The term "community emergency response team member" means an individual registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

Upon request of the bureau, the disaster emergency organization of a municipality shall provide the bureau with its roster of registered community emergency response team members."

Page 9, line 22, after "to" insert "emergency or disaster" and overstrike "disaster emergency"

Page 9, line 23, overstrike "trainees"

Page 9, line 29, remove "firefighters", overstrike "and" and insert immediately thereafter "firefighter, emergency or disaster", and overstrike "disaster emergency"

Page 9, line 30, overstrike "trainees" and insert immediately thereafter "and community emergency response team member"

(2) DESK, (3) COMM

Page No. 1

HR-16-1171

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Donna G. Baller
Operator's Signature

1/21/03
Date

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 10:29 a.m.

Module No: HR-16-1171
Carrier: Nottestad
Insert LC: 38092.0101 Title: .0200

Page 9, line 31, after "firefighters" insert "emergency or disaster volunteers." and overstrike "volunteer disaster emergency trainees" and insert immediately thereafter "community emergency response team members"

Page 10, line 9, after "to" insert "a" remove "firefighters", overstrike the second "and" and insert immediately thereafter "firefighter, an emergency or disaster", and overstrike "disaster emergency"

Page 10, line 10, overstrike "trainees" and insert immediately thereafter ". or a community emergency response team member"

Page 10, line 16, remove "firefighters"

Page 10, line 17, overstrike "and volunteer" and insert immediately thereafter "firefighters, emergency or" and overstrike "emergency trainees" and insert immediately thereafter "volunteers, community emergency response team members"

Page 10, line 20, remove "firefighters" and overstrike "and"

Page 10, line 21, overstrike "volunteer disaster emergency trainees" and insert immediately thereafter "firefighters, emergency or disaster volunteers, and community emergency response team members"

Page 11, line 1, replace "Section 2 of this" with "This"

Renumber accordingly

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Dorena Holbrook
Operator's Signature

1/2/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1149

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Danna G. Ballantyne
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1149

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 03-03-03

Tape Number	Side A	Side B	Meter #
1		xxx	1400-2900

Committee Clerk Signature *Lisabon Berkow*

Minutes: Chairman Mutch opened the hearing on HB 1149. All Senators were present.

HB 1149 relates to state agency participation in the workers' compensation risk management program and the employee information program on hazardous substances.

Testimony in support of HB 1149.

Brent Edison, Executive Director & CEO North Dakota Workers Compensation, introduced the bill. See attached testimony.

Representative Glenn Froseth submitted written testimony, but did not testify. See attached.

Senator Mutch: (to Brent Edison) Do these repealers comply with OSHA?

Brent: Yes.

Doug Freeze, Director of Emergency Management, wanted to go on record in support of the bill.

Hearing was closed.

Senator Klein moved a DO PASS. Senator Heitkamp seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent. Carrier: Senator Heitkamp

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Deanna Heitkamp
Operator's Signature

10/2/03
Date

Date: 03-03-03
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate _____ 1149 _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espgaard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Heitkamp

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

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Donna Ballerath 10/2/03
Operator's signature Date

REPORT OF STANDING COMMITTEE (410)
March 3, 2003 1:02 p.m.

Module No: SR-37-3734
Carrier: Holtkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1149, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1149 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-37-3734

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Doreen Holtkamp
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1149

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Doreen M. Gallardo
Operator's Signature

10/2/03
Date

Amendments to HB 1149

January 21, 2003

*Final note required
by WJB*

Page 9, line 3, after the comma insert "emergency or disaster" and delete
"disaster emergency"

Page 9, line 4, replace "trainee" with ", community emergency response team
member"

Page 9, line 13, after the first quotation mark insert "emergency or disaster" and
delete "disaster emergency trainee"

Page 9, line 14, replace "in" with "or is responding to an emergency, disaster, or"

Page 9, line 15, delete "the event of an"

Page 9, line 19, after "a" insert "emergency or disaster" and delete "disaster
emergency trainee"

Page 9, line 21, after "an" insert "emergency, disaster, or"

Page 9, line 22, insert a new paragraph:

The term "community emergency response team member" means a person registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

Page 9, line 22, after "to" insert "emergency or disaster" and delete "disaster
emergency"

Page 9, line 23, delete "trainee"

Page 9, line 29, replace "and" with ", emergency or disaster" and delete "disaster
emergency"

Page 9, line 30, replace "trainees" with ", and community emergency response
team members"

Page 9, line 31, replace "and" with ", emergency or disaster" and replace
"disaster emergency trainees" with ", and community emergency response
team members"

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Dorena Ballbrath
Operator's Signature

10/2/03
Date

Page 10, line 9, replace "and" with ", emergency or disaster" and delete "disaster emergency"

Page 10, line 10, replace "trainees" with ", and community emergency response team members"

Page 10, line 16, Insert a comma after "firefighters"

Page 10, line 17, "and" with "emergency or disaster" and replace "disaster emergency volunteers" with ", and community emergency response team members"

Page 10, line 20, replace "and" with ", emergency or disaster"

Page 10, line 21, replace "disaster emergency trainees" with ", and community emergency response team members"

Page 11, line 1, replace "Section 2" with "Sections 2, 10, 11, 12, 13, and 14", replace "is" with "are" and delete "an"

Page 11, line 2, replace "measure" with "measures"

Renumber Accordingly

Upon request by the bureau, the disaster emergency organization of a municipality shall provide the bureau with its roster of registered community emergency response team members.

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Deanna Holbrook
Operator's Signature

10/2/03
Date

SECTION 10. AMENDMENT. Section 65-06-01 of the North Dakota Century Code is amended and reenacted as follows:

65-06-01. Volunteer firefighter, emergency or disaster volunteer, community emergency response team member, in training defined. The term "volunteer firefighter" means any active member of an organized volunteer fire department of this state and any other person performing services as a volunteer firefighter for a municipality at the request of the chief or other person in command of the fire department of that municipality or of any other officer of that municipality having authority to demand service as a firefighter. Firefighters who are paid a regular wage or stipend by the municipality for serving as a firefighter, or whose entire time is devoted to service as a firefighter for the municipality, for the purpose of this chapter, are not volunteer firefighters.

The term "emergency or disaster volunteer" means any person serving without remuneration who is actively engaged in training to qualify as a disaster emergency worker or is responding to an emergency, disaster, or enemy attack on this country, and who is registered with the disaster emergency organization of a municipality, which has been officially recognized by the director of the state division of emergency management.

The term "in training" means only those periods of time during which an emergency or disaster volunteer is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a disaster emergency worker in the event of an emergency, disaster, or enemy attack on this country.

The term "community emergency response team member" means a person registered as a community emergency response team member with the appropriate authority. For purposes of this chapter, a community emergency response team member is acting as a community emergency response team member only when the individual is receiving approved community emergency response team training or is acting as a member of a community emergency response team in an emergency or disaster.

The term "municipality" when used in reference to emergency or disaster volunteers means the state, cities, counties, municipalities, districts, or any other

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Operator's Signature

10/2/03
Date

geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firefighters.

SECTION 11. AMENDMENT. Section 65-06-02 of the North Dakota Century Code is amended and reenacted as follows:

65-06-02. Volunteer firefighters, emergency or disaster volunteer, and community emergency response team members declared employees - Covered by workers' compensation - Termination. Volunteer firefighters, emergency or disaster volunteers, and community emergency response team members are employees of the municipalities which they serve and are entitled to the same protection and rights under the provision of this title as are full-time paid employees of those municipalities.

SECTION 12. AMENDMENT. Section 65-06-03 of the North Dakota Century Code is amended and reenacted as follows:

65-06-03. Compensation benefits - How determined. The basis of compensation and benefits to be paid to volunteer firefighters, emergency or disaster volunteers, and community emergency response team members under the terms of this chapter shall be determined in accordance with the provisions of section 65-06-09; provided, however, that the weekly wage of the claimant shall be determined from a computation of income derived from the claimant's business or employment.

SECTION 13. AMENDMENT. Section 65-06-04 of the North Dakota Century Code is amended and reenacted as follows:

65-06-04. Assessment of premiums. For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firefighters, emergency or disaster volunteers, and community emergency response team members, the bureau shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out the provisions of this chapter, and shall fix the annual charges and assessments which shall be made against municipalities employing volunteer firefighters, emergency or disaster volunteers, and community emergency response team members. Such a charge shall be a fixed sum for each one hundred of the population of the municipality involved, the

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same to be uniform as to all such municipalities but in proportion to the population thereof. In determining the amount of premium charge, the bureau may apply the system of experience rating provided in this title, as applied to other risks. The bureau may also establish a minimum charge or assessment to be applicable to municipalities where the fixed rate or charge multiplied by the number of hundreds of the population thereof would amount to less than the amount of such a minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

SECTION 14. REPEAL. Section 65-04-19.2 and chapter 65-14 of the North Dakota Century Code are repealed.

SECTION 15. EMERGENCY. Sections 2, 10, 11, 12, 13, and 14 of this Act are declared to be emergency measures.

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Deanna G. Hallmark
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10/2/03
Date



Representative Glen Froseth
District 6
P.O. Box 884
Kenmare, ND 58746-0884
gfroseth@state.nd.us

NORTH DAKOTA HOUSE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business and Labor
Political Subdivisions

TESTIMONY HB 1149

Representative Glen Froseth
District 6

Chairman Keiser and members of the IBL Committee, HB 1149 is presented in behalf of Workers Compensation for your consideration.

This bill is an initiative which provides the Workers Compensation Bureau Director the discretion to opt-out of participation in a third-party action;

eliminates the expiration date (June 30, 2003) for the state entities account; provides that an employer certificate of coverage may indicate the employer has paid the minimum premium and has estimated no wages for the period indicated on the certificate;

allows the Workers Compensation Bureau to disclose the status of an employer's account and provides for the release of employer information to state and federal agencies; allows for personal liability of a partner in a limited liability partnership for the failure to pay premiums or file premium reports;

clarifies the mechanism by which decisions are made that affect employer accounts;

amends and clarifies the penalty structure for the failure to secure Workers Compensation coverage;

allows the Workers Compensation Bureau to bill and impose a penalty for an employer's failure to pay the established medical assessment within 30 days from the date of billing rather than the current 90 days from the date of billing;

allows an employer in any approved risk management program to select preferred providers to render medical treatment; extends existing Workers Compensation coverage for volunteer disaster emergency trainees;

repeals section 65-04-19.2 and Chapter 65-14.

Chairman Keiser and Committee, with us today are representatives of Workers Compensation who are here to further explain the bill and answer any questions the committee may have.

I believe these are good changes and urge a favorable consideration for HB 1149.

Thank you.

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Glen Froseth
Operator's Signature

10/2/03
Date

2003 House Bill No. 1149
Testimony before the House Industry, Business, and Labor Committee
Presented by: Brent J. Edison
Executive Director & CEO
North Dakota Workers Compensation
January 21, 2003

Mr. Chairman, Members of the Committee:

My name is Brent Edison and I am the Director and CEO of North Dakota Workers Compensation. I am here today to testify in support of 2003 House Bill No. 1149. This bill proposes changes to several statutes regarding subrogation and policyholder services. The Workers Compensation Board of Directors unanimously supports this bill. I will address the proposed changes section by section.

(Section 1). In 1997, § 65-01-09 was amended to permit the Director of Workers Compensation to opt out of a medical malpractice action. The proposed amendment would permit the Director to opt out of any third-party action. This discretion is requested to avoid the expenditure of funds in actions in which it is determined the costs of participation outweigh the benefits.

(Section 2). Section 65-04-03.1 is a result of legislation passed by the 2001 Legislative Assembly. This legislation consolidated all state agency accounts into a single workers compensation account. Because this consolidation has been successful, the proposed amendment simply removes the sunset clause, making § 65-04-03.1 permanent law. Section 65-04-03.1 is scheduled to expire on June 30, 2003. Therefore, this section is declared to be an emergency measure in Section 15 of this bill.

(Section 3). This amendment allows North Dakota Workers Compensation to identify on the Certificate of Premium Payment those employers who have an open account with NDWC and represent to NDWC that they have no employees.

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Brent J. Edison
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The purpose of this legislation is a matter of public interest. During the hall storms of 2001 and the repair work that followed, NDWC learned that some employers used the Certificate of Premium Payment to represent to consumers their workers were fully insured for workers compensation purposes, when in fact they were not.

As certificates are currently generated, it is impossible to tell whether or not an employer is paying premium on workers. This proposed amendment permits NDWC to distinguish between employers who are estimating wages on employees and those who are not, so a consumer or primary contractor can be accurately informed.

(Section 4). The proposed changes amend §65-04-15, the employer confidentiality statute, in two ways. First, the amendment permits the disclosure of the status of an employer file. Currently, NDWC may tell a requesting party whether or not an employer has an account with NDWC. The amendment permits Workers Compensation to disclose whether the account is active, cancelled, closed, pending or delinquent. This tool may prove invaluable to a homeowner researching a contractor, or to a contractor confirming the statements of subcontractors.

Secondly, the amendment simplifies and broadens with whom Workers Compensation may exchange information. The current language lists a number of agencies individually. The amendment provides Workers Compensation with the discretion to disclose employer information to any state or federal agency, but only for the purpose of administering the duties of the state or federal agency.

(Section 5). § 65-04-26.1 provides the statutory ability to assess personal liability against the officers or directors of a corporation, the manager or governors of a limited liability company, and employee of a corporation or limited liability

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company under certain circumstances. The proposed amendment seeks to include the partner of a limited liability partnership. With this type of entity growing as a popular option for business structure, this amendment is a logical extension of those entities already within the scope of § 65-04-26.1.

(Section 6). The proposed amendment clarifies §65-04-32(1) and corrects a typographical error in subsection 2. No substantive change is intended by this amendment.

(Section 7). This section clarifies potential ambiguities in existing law by making it clear that the penalty for noncompliance in the payment of workers compensation premiums increases by 5% for each year of noncompliance up to the statutory maximum of 6 years of noncompliance with an accompanying penalty of 50%.

(Section 8). This section changes the billing cycle of claims loss assessments from 90 days to 30 days. When an injury occurs and a claim is filed, the first \$250 of claims costs are billed back to the employer. Historically, these billings have been on a quarterly cycle. The billing of all workers compensation premium is now monthly and this amendment permits NDWC to bill claim loss assessments in the same way. This change will allow a single billing statement, reflecting both premium and claims loss assessments.

(Section 9). All employers who maintain a risk management program are entitled to participate in the preferred provider program. This proposed change removes any misconception that only those employers who participate in the 5% Risk Management Program may participate in the preferred provider program.

(Sections 10 through 13). The proposed amendments to §§ 65-06-01 through 65-06-04 contained in sections 10 through 13, replace the term "fireman" and "firemen" with the terms "firefighter" and "firefighters" throughout. The

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amendment also extends coverage for volunteer disaster emergency trainees. Currently, coverage for volunteer disaster emergency trainees is provided only during times of training and excludes coverage should an enemy attack on this country occur. This legislation extends coverage to those trainees should they be called upon to serve in the event of an actual enemy attack.

(Section 14.) This section repeals Section 65-04-19.2 and Chapter 65-14. Section 65-04-19.2 addresses state agency participation in a risk management program. This section is made obsolete by Section 65-04-03.1 (Section 2, above).

Chapter 65-14 was enacted in 1985 to address a growing concern about hazardous chemicals in the workplace. In 1983, OSHA began to implement a similar standard nationwide, which was not in full effect until 1988. In the interim, many states, including North Dakota, opted to draft their own legislation for employee information on hazardous substances or, as it is more commonly known, a "right-to-know law".

In 2000, NDWC adopted by administrative rule, the applicable OSHA Standards governing safety and conduct in the state's workplaces (N.D. Admin. Code 92-02-01-01). In content, the OSHA standard is very much the same as Chapter 65-14. Therefore, Chapter 65-14 is redundant and unnecessary.

NDWC requests your favorable consideration of 2003 House Bill 1149. If there are any questions, I would be happy to answer them at this time.

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Deanna G. Ballantyne
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10/2/03
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Jobbers Moving & Storage Co.

Bismarck: 1200 Industrial Drive, Bismarck, N.D. 58501 • Tel: (701) 222-1111 (800) 891-1104 • Fax: (701) 255-3176
Fargo: 8109 53rd Avenue S.W., Fargo, N.D. 58104 • Tel: (701) 356-8060 (800) 523-6203 • Fax: (701) 356-8062
Minot: 4400 N. Broadway, Minot, N.D. 58703 • Tel: (701) 837-1111 • Fax: (701) 837-7966
Aberdeen: 13304 392nd Ave., Aberdeen, S.D. 57401 • Tel: (605) 225-4650 • Fax: (605) 225-4651

January 21, 2003

House Industry, Business and Labor Committee

Testimony on House Bill No. 1060
House Bill No. 1065
House Bill No. 1149
House Bill No. 1150

Charles Peterson, Board Chairman, Jobbers Moving & Storage

Mr. Chairman and Member of the Committee:

My name is Chuck Peterson and I am Chairman of Jobbers Moving & Storage Co., Bismarck, ND. I am here today to testify in favor of House Bill No. 1060, House Bill No. 1065, House Bill No. 1149 and House Bill No. 1150. As former Chairman of the Workers Compensation Board of Directors, I can speak firsthand to the tremendous amount of planning, preparation, and analysis put forth in devising proposed legislation for your consideration.

The four bills before you strike a balance between maintaining premium levels and modestly increasing benefit levels. Any businessperson can attest to the difficulties created for employers by the current insurance market. Across the country, many workers compensation insurers are dramatically raising rates and are forced to contemplate benefit decreases. Maintaining premium rates and proposing benefit increases, while at the same time providing a high level of service to its constituency groups, is an accomplishment of which North Dakota Workers Compensation should be proud.

The effectiveness of the current system is the result of the hard work on the part of many, not the least of which is the Legislative Assembly. I urge your continued support and request your approval of House Bill No. 1060, House Bill No. 1065, House Bill No. 1149 and House Bill No. 1150 so that North Dakota Workers Compensation may continue its advancements.

ALLIED
Agent for Allied Van Lines®

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Charles Peterson
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1/21/03
Date

January 21, 2003

House Industry, Business and Labor Committee

Testimony on House Bill No. 1060
House Bill No. 1065
House Bill No. 1149
House Bill No. 1150

Charles Peterson, Board Chairman, Jobbers Moving & Storage

The following businesses/organizations support House Bills 1060, 1065, 1149 and 1150:

Associated General Contractors
Association of Builders
Automobile Dealers Association
Bankers Association
Bismarck-Mandan Chamber of Commerce
Greater North Dakota Association
Healthcare Association
Hospitality Association
Implement Dealers Association
National Federation of Independent Business
Otter Tail Power Co.
Petroleum Council
Qwest Corporation
Retail/Petroleum Marketers Association
Xcel Energy

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1/21/03
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Introduce Bill

2003 Engrossed House Bill No. 1149
Testimony before the Senate Industry, Business, and Labor Committee
Presented by: Brent J. Edison
Executive Director & CEO
North Dakota Workers Compensation
March 3, 2003

Mr. Chairman, Members of the Committee:

My name is Brent Edison and I am the Director and CEO of North Dakota Workers Compensation. I am here today to testify in support of Engrossed House Bill No. 1149. This bill proposes changes to several statutes regarding subrogation and policyholder services. The Workers Compensation Board of Directors unanimously supports this bill, as did the House of Representatives (90-0). I will address the proposed changes section by section.

(Section 1). In 1997, § 65-01-09 was amended to permit the Director of Workers Compensation to opt out of a medical malpractice action. The proposed amendment would permit the Director to opt out of any third-party action. This discretion is requested to avoid the expenditure of funds in actions in which it is determined the costs of participation outweigh the benefits.

(Section 2). Section 65-04-03.1 is a result of legislation passed by the 2001 Legislative Assembly. This legislation consolidated all state agency accounts into a single workers compensation account. Because this consolidation has been successful, the proposed amendment simply removes the sunset clause, making § 65-04-03.1 permanent law.

(Section 3). This amendment allows North Dakota Workers Compensation to identify on the Certificate of Premium Payment those employers who have an open account with NDWC and represent to NDWC that they have no employees.

The purpose of this legislation is a matter of public interest. During the hall storms of 2001 and the repair work that followed, NDWC learned that some employers used the Certificate of Premium Payment to represent to consumers their workers were fully insured for workers compensation purposes, when in fact they were not.

As certificates are currently generated, it is impossible to tell whether or not an employer is paying premium on workers. This proposed amendment permits NDWC to distinguish between employers who are estimating wages on employees and those who are not, so a consumer or primary contractor can be accurately informed.

(Section 4). The proposed changes amend §65-04-15, the employer confidentiality statute, in two ways. First, the amendment permits the disclosure of the status of an employer file. Currently, NDWC may tell a requesting party whether or not an employer has an account with NDWC. The amendment permits Workers Compensation to disclose whether the account is active, cancelled, closed, pending or delinquent. This tool may prove invaluable to a homeowner researching a contractor, or to a contractor confirming the statements of subcontractors.

Secondly, the amendment simplifies and broadens with whom Workers Compensation may exchange information. The current language lists a number of agencies individually. The amendment provides Workers Compensation with the discretion to disclose employer information to any state or federal agency, but only for the purpose of administering the duties of the state or federal agency.

(Section 5). § 65-04-26.1 provides the statutory ability to assess personal liability against the officers or directors of a corporation, the manager or governors of a limited liability company, and employee of a corporation or limited liability company under certain circumstances. The proposed amendment seeks to

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include the partner of a limited liability partnership. With this type of entity growing as a popular option for business structure, this amendment is a logical extension of those entities already within the scope of § 65-04-26.1.

(Section 6). The proposed amendment clarifies §65-04-32(1) and corrects a typographical error in subsection 2. No substantive change is intended by this amendment.

(Section 7). This section clarifies potential ambiguities in existing law by making it clear that the penalty for noncompliance in the payment of workers compensation premiums increases by 5% for each year of noncompliance up to the statutory maximum of 6 years of noncompliance with an accompanying penalty of 50%.

(Section 8). This section changes the billing cycle of claims loss assessments from 90 days to 30 days. When an injury occurs and a claim is filed, the first \$250 of claims costs are billed back to the employer. Historically, these billings have been on a quarterly cycle. The billing of all workers compensation premium is now monthly and this amendment permits NDWC to bill claim loss assessments in the same way. This change will allow a single billing statement, reflecting both premium and claims loss assessments.

(Section 9). All employers who maintain a risk management program are entitled to participate in the preferred provider program. This proposed change removes any misconception that only those employers who participate in the 5% Risk Management Program may participate in the preferred provider program.

(Sections 10 through 13). In its original form, HB 1149 proposed to change the term "fireman" and "firemen" with the terms "firefighter" and "firefighters" in §§ 65-06-01 through 65-06-04, as well as extend coverage for volunteer disaster emergency trainees. Currently, coverage for volunteer disaster emergency

trainees is provided only during times of training and excludes coverage should an enemy attack on this country occur. HB 1149 originally attempted to extend coverage to those trainees should they be called upon to serve in the event of an actual enemy attack.

While this bill was pending before the House, NDWC prepared amendments at the request of the Division of Emergency Management and the North Dakota League of Cities to further define and expand the scope of coverage under §§ 65-06-01 through 65-06-04. Engrossed HB 1149 will provide coverage to volunteer firefighters, emergency or disaster volunteers, and community emergency response team members working as part of the Citizens Corp Initiative.

(Section 14.) This section repeals Section 65-04-19.2 and Chapter 65-14. Section 65-04-19.2 addresses state agency participation in a risk management program. This section is made obsolete by Section 65-04-03.1 (Section 2, above).

Chapter 65-14 was enacted in 1985 to address a growing concern about hazardous chemicals in the workplace. In 1983, OSHA began to implement a similar standard nationwide, which was not in full effect until 1988. In the interim, many states, including North Dakota, opted to draft their own legislation for employee information on hazardous substances or, as it is more commonly known, a "right-to-know law".

In 2000, NDWC adopted by administrative rule, the applicable OSHA Standards governing safety and conduct in the state's workplaces (N.D. Admin. Code 92-02-01-01). In content, the OSHA standard is very much the same as Chapter 65-14. Therefore, Chapter 65-14 is redundant and unnecessary.

(Section 15). HB 1149 originally declared Section 2 of this bill (elimination of the sunset clause to Section 65-04-03.1) to be an emergency measure as Section 65-04-03.1 is scheduled to expire on June 30, 2003. However, in order to provide coverage as soon as possible to those newly identified volunteers in Sections 10 through 13, Engrossed HB1149 declares the entire bill to be an emergency measure.

NDWC requests your favorable consideration of Engrossed House Bill No. 1149. If there are any questions, I would be happy to answer them at this time.

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Deanna Holbrook
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10/2/03
Date



Representative Glen Froseth
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NORTH DAKOTA HOUSE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business and Labor
Political Subdivisions

TESTIMONY HB 1149

Representative Glen Froseth
District 6

Chairman Mutch and members of the Senate IBL Committee, **HB 1149** is presented in behalf of Workers Compensation for your consideration.

This bill is an initiative which provides the Workers Compensation Bureau Director the discretion to opt-out of participation in a third-party action;

eliminates the expiration date (June 30, 2003) for the state entities account; provides that an employer certificate of coverage may indicate the employer has paid the minimum premium and has estimated no wages for the period indicated on the certificate;

allows the Workers Compensation Bureau to disclose the status of an employer's account and provides for the release of employer information to state and federal agencies; allows for personal liability of a partner in a limited liability partnership for the failure to pay premiums or file premium reports;

clarifies the mechanism by which decisions are made that affect employer accounts;

amends and clarifies the penalty structure for the failure to secure Workers Compensation coverage;

allows the Workers Compensation Bureau to bill and impose a penalty for an employer's failure to pay the established medical assessment within 30 days from the date of billing rather than the current 90 days from the date of billing;

allows an employer in any approved risk management program to select preferred providers to render medical treatment; extends existing Workers Compensation coverage for volunteer disaster emergency trainees;

repeals section 65-04-19.2 and Chapter 65-14.

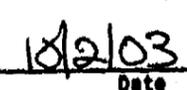
Chairman Mutch and Committee, with us today are representatives of Workers Compensation who are here to further explain the bill and answer any questions the committee may have.

I believe these are good changes and urge a favorable consideration for HB 1149.

Thank you.

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March 3, 2003

Senate Industry, Business and Labor Committee

Testimony on House Bill No. 1060
House Bill No. 1065
House Bill No. 1149
House Bill No. 1150

Charles Peterson, President, Jobbers Moving & Storage

The following businesses/organizations support House Bills 1060, 1065, 1149 and 1150:

Associated General Contractors – Curt Peterson
Association of Builders – Doreen Mehlhoff
Automobile Dealers Association – Bob Lamp
Bankers Association – Jim Schlosser
Bismarck-Mandan Chamber of Commerce – Dave MacIver
Greater North Dakota Association – Dale O. Anderson
Healthcare Association – Chip Thomas
Hospitality Association – Patti Lewis
Implement Dealers Association – Bob Lamp
National Federation of Independent Business – Bill Butcher
Otter Tail Power Co. – Steve Schultz
Petroleum Council – Ron Ness
Qwest Corporation – Mel Kambertz
Retail/Petroleum Marketers Association – Russ Hanson
Xcel Energy – Kathy Aas

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