

FISCAL NOTE
Requested by Legislative Council
01/13/2015

Bill/Resolution No.: HB 1317

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

see attachment

- 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.*

see attachment

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Agency: WSI

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Date Prepared: 01/16/2015

WORKFORCE SAFETY & INSURANCE
2015 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1317

BILL DESCRIPTION: PTSD Coverage

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed bill provides benefits for posttraumatic stress disorder sustained by first responders, including full-time paid firefighters, full-time paid law enforcement officers, and full-time paid emergency medical services personnel; requires the condition causing the posttraumatic stress disorder to be extraordinary and unusual when compared to the normal conditions of the particular employment; limits disability benefits to no more than twenty-six weeks; and limits all other benefits to \$15,000.

FISCAL IMPACT: Not quantifiable. We don't anticipate that the proposed legislation will have a material impact on statewide premium rate levels; however, rates for the specific first responder classifications may increase over time as a result of the expanded coverage. To what extent is unclear as we don't have access to an appropriate base of historical experience to use in deriving the estimates.

DATE: January 16, 2015

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1317

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1317
1/21/2015
22337

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Workers' compensation coverage of first responders for posttraumatic stress disorder and provide for application & expiration date.

Minutes:

Attachment #1 #2 #3

Representative Amerman: House bill 1317 deals with the posttraumatic stress disorder for paid firefighters and emergency responders. There's a little history I would like the committee to know: I serve on the work force review committee, we heard the performance audit that they had to present to the committee. One of the recommendations that came out of the performance audit is that we should have something in code to deal with the issue that the bill presents. WSI brought forth a bill draft to the committee, not as an agency bill, we discussed it in committee and voted on it and it was defeated in committee by three to two. I thought it was worthy bringing it to the "big show". So what you have before you is written by WSI. It's a very restrictive bill; it's a very well written bill as to how PTSD would be described under workers comp. law with the thresholds where they have to be to meet to qualify under the workers comp. law. It points out who it is that's paid full time; firefighters, police, EMTs and so on. It's very restrictive; it's a good first step to this type of what I call mental injuries. Mental injuries are becoming more in the for-front so to speak as legitimate injuries verses breaking your leg and so on. There are a lot of individuals and associations and this might head off some questions: why not volunteer firefighters, EMTs, first responders? I struggle with bringing it forward in this form or to amend it and modify it to include all these other groups. Right now in events of the WSI and we say well why aren't we covering this? There is nothing on the books. They almost have to remain silent. So you have to start somewhere. You have to have something in code on mental injuries to start the conversation. I would love to involve all of the volunteers so do I amend and include all this or do I bring it forward in this, what I call a restricted form?

Representative Lefor: In subsection 7 at the end of line 9, it says the injured employee establishes by a preponderance of the evidence. How do you arrive at that? How does one prove that?

Representative Amerman: There is a different level and this was not discussed but WSI can address that.

Representative Becker: On line 10 of page 2, it says that the condition causing the PTSD. I'm trying to understand condition in my mind I think of event or events. Condition seems to indicate something of the constitution of the person as opposed to an event. Is there a different way for me to understand the choice of that word?

Representative Amerman: I think and I'm not sure but if you go down to the next where it says a.) Has to have the reasonable medical certainty and has to be 50% of the injury caused as a condition. As you read through this it's pretty spelt out in this bill to qualify for workers comp.

Representative Kasper: lines 1, 2 and 3 are limiting the benefits to 26 weeks and not more than 15,000 dollars. Is there a reason you chose to limit the benefits and at those amounts?

Representative Amerman: I have no a grievance to whatever if we want to change anything. I didn't change anything in the bill as it was brought forward because I think it's so important to have something on the books that WSI can talk about and relate back to versus them having to be silent because we have absolutely nothing there.

Representative Ruby: Often times we see something that is dealing with this type of condition under unemployment benefits instead of workers comp. benefits. Obviously there are some places like line 3 where it is covered for a mental or psychological condition caused by an injury. Obviously what this is doing is saying that this stress disorder that is not necessarily a physical injury but basically a mental. Are you familiar with more attempts to put it in worker's compensation rather than in an unemployment benefit area?

Representative Amerman: I have never really heard or been approached about putting it in the unemployment code of our state laws. All I can say is these injuries are real.

Representative Ruby: Subsection 7, it's somewhat a subjective term when it talks about that it was extraordinary and unusual in comparison to the normal conditions. I'm wondering what some of those examples are? What could rise to the level of what is beyond what they normally see, because they have to be prepared and they are trained their whole life basically on how to deal with those types of situations?

Representative Amerman: You have hit to the core of the issue. We don't know until we have test cases and we can't have test cases until we have something on the books to compare. I'm not a psychologist so I don't know how that works, but I do know nothing will ever happen, we have nothing to compare it to, we have no test grounds, and we have no data until we get something in the books and this just a start.

Chairman Keiser: WSI in North Dakota has always covered physical, mental conditions if there's a relationship. If you have a car fall on you while at work and it crushes your back and you're in extreme physical pain from that physical injury you suffer from depression, depression is covered. That's physical mental. Some states do clearly have coverage for

what we call mental mental. There is a mental cause of a physical condition. This is a very limited movement into mental mental within the state of North Dakota.

Ron Guggisberg: District 11 Fargo. There is going to be a lot of things we remember about this session but I think two of the big ones: one we just got done talking about volatile oil prices and another big issue is mental health. Like I said this is the third time we have seen a similar bill to this so in these 6 years we have learned a lot. We have learned a lot about PTSD. We have learned that it's real, that it can be diagnosed and we learned that it can be treated. The sooner we diagnose it, the sooner we can recognize, the sooner we can treat it and the easier it is to treat and the cheaper it is to treat. So I think this is the time we need to look at this. This bill is a little different from the one that we saw in the previous two sessions. It's very limited. I look at it as a very good pilot project to see if there are issues out there and if we can address them. I think before we can start to identify a problem we have to admit that there is a problem and before we can start preventing PTSD in emergency services we have to let WSI admit that it is a real thing and it is something that can be prevented.

Representative Louser: What have you experienced that would be extraordinary?

Guggisberg: (Attachment #1) Representative Boschee has testimony from a coworker that is a good example of what my friend saw and was affected and feels like if we recognize something like this. He took the long route and had a tough time with it. He's ok now but if we can identify these things and get some professional help. This is something you will see here is that firefighters and police officers and EMTS all take care of each other. Some people react differently to it. It's not only the situation that you are put in but it's also individuals and how we can deal with it.

Representative Boschee: As a professional firefighter can you share with us the on boarding process of a new hire and a fire department. I think it's important for us to also understand that if someone is not able to continue on with a job due to the impacts of some of these situations, what is the impact on us tax payers, us citizens when we are hiring new firefighters, police officers and EMTS?

Guggisberg: It's something that all organizations in the fire service, all national groups have taken this on as one of their number one goals to look at mental health in the fire service. I don't know about law enforcement but I would guess that they would say the same. We are lucky in Fargo we have services from the village so we would have some services.

Chairman Keiser: Does this fall under the disability section of the code? There is wage replacement through disability is that correct?

Guggisberg: I'm not sure.

Dan Sweeny: I am an emergency services chaplain for the past 12 years, I am the state coordinator for the critical incident stress management program that is underneath the department of emergency services and department of health and I have worked with law enforcement, fire, ambulance workers and dispatchers now for 12 years of dealing with

them under these circumstances. I have over 200 hours and I am advanced trainer in what's call critical incident stress management. It's catching the traumatic event just as close to after it happens as possible so that we can work with people to get them from going into PTSD. The problem is that some of the events that these peoples in emergency services face go above and beyond. What is it that really goes beyond; we train these professionals to handle these kind of circumstances, isn't it a matter of course for them to experience these things because of the training they have been through. Without being too graphic let me bring up four instances of people that I've worked with and what happens to me is this; in the middle of the night I get the phone call from and emergency personal person who is struggling with his marriage, struggling with thoughts of suicide, struggling with thoughts of ending their career and they are saying Chaplain I need to talk. Inevitably I go and visit with them and they tell me the story of something that happened month's years previous. PTSD is one of those kinds of things that happen and what we see in the clinical definition of it is where the symptoms last for more than 30 days. Sleeplessness, thoughts of depression, thoughts of suicide, family conflict and these things progress for more than 30 days. They are not something that just dissipates. These things weight on an emergency personnel's mind until it comes to the for-front and just takes over their being. It's the flash backs, it's the in ability to close your eyes without seeing some of the traumatic events that you have faced. I do not know of one cop that I have worked with who has placed shots down range without fearing for their own life or fearing for the fact that they did kill someone. One individual who allows me to talk about his experience, in 2003 this individual had to shoot a bad guy in town. It was a righteous shoot, as it's called in law enforcement, and the struggles that a cop goes through when they do actually kill someone is not portrayed on television. That goes above and beyond because of the fact that I have killed another human being. I have worked with cops who have killed people; I have worked with soldiers coming back from Vietnam, Iraq, and Afghanistan. When you kill a human being it changes your life forever. When an officer shoots someone that's the thing that goes above and beyond your normal stress level from 1-10, pulling your firearm raises it to 15. That's the thing that goes above and beyond and why you have flash backs and why you can't forget that. He would tell you that he still sees that vision every once and awhile. How about the young firefighter that went into a burning trailer home to retrieve a victim who was collapsed on the floor believing the victim is still alive, but as he crawled around the room feeling around he felt the victims arm and was going to pull the arm of the victim. The rest I won't talk about because it's too graphic. That was a 15 on a scale of 1-10. It's the fact that this firefighter could not deal with what he felt in that fire touching another human being. He had these flash backs that kept on coming to him. One of the most critical calls that an emergency personnel has to take is a SIDS death. Where you take and come into a scene of an incident and you have a baby that's blue and you expend all of your energy doing CPR and doing everything possible to bring this baby back to life and the baby does not live. Babies are not supposed to die. That is a 15 over the stress level 10. Or the dispatcher, who is sitting at the radio and someone calls in and says there is a suicide down in the park and she says excuse me and hears a gun shot. That implants in her brain and is a 20 on a scale of 1-10, because a human being has killed himself while she was on the phone with him and she didn't even get the chance to talk him out of it where a suicide where the dispatcher hears the shot and didn't even have the chance to talk to them. Those are the stressors that go above and beyond that training doesn't cover. They become a danger to themselves because they are no longer really in the game, and they are a danger to their other coworkers because they aren't in the game.

Steve Dirks: Fire chief for the city of Fargo. I've been an emergency responder for 25 years of my life. I started off in a small volunteer department in Iowa, moved to the city of Sioux Falls and worked there for 18 years. Moved up in ranks and for the last 3 years I have been the chief in Fargo. I can honestly say I've seen it all. I have been an ambulance driver, paramedic, and firefighter. The only thing I haven't covered in this bill is law enforcement. I have a story to tell about PTSD and how it affected me. I have seen it in my previous employment in Sioux Falls. I have five former coworkers who have chosen through what they have seen in their lives that now I have to visit them in a cemetery. Its accumulation of things, my own person story I can tell you a five year period of my life in my career where it started with a 19 year old young lady driving home with her parents after visiting her brother, they were involved in a car accident with two other boys, five fatalities. I happened to take care of this young lady. I crawled into the back of the car and there wasn't a bone left in her body, she was basically jello. That was the first incident; I was able to deal with it by talking to people. Two years down the road, the way the fire service works we work one day then off a day and so on. So we had a three day stretch of work; suicide by gun shot, suicide by hanging, suicide by gunshot, one each day that my crew and I responded too. We dealt with it, we talked through it, we had counseling available. A fire exactly like the Chaplain described, reached in grabbed the body it didn't all come with me. Those things resonate over time. Come to the final of the events, I respond with an ambulance to a four year old not breathing, a beautiful young girl. Murdered and sexually abused. New that day who did it, he was standing right there. The emotions that come over you, you can't train for. Those things affect you, they hit you. I will stand right in front of you because I told this story before. That day I knew I was personally capable of killing someone, because if they would have left me alone with that guy he wouldn't be on this earth today, because of what I saw he had done to that little girl. Those things you can't train for, those are those events. For me I was able to talk through them, but six months later things aren't going right in my life, I'm having difficulties. Fortunate things for me and my life I live with and have been married to for 25 years a mental health professional that noticed what was going on in my life and she said "Steve you need to do something." We worked through it. We try to plan for it, we try to talk about it and you try to train but for some people it's that one event that sends them over the edge. For me it was five years of things that piled up. I had things in my head; I couldn't close my eyes at night without seeing Shelby. I saw that for days, for weeks and months and every now and then I get it today. In our city we have an EAP program and we really train our people to look at that and use those and I've used it on several of our firefighters in our town. I write the referral and send them there, but we don't always catch everybody. Sometimes its longer that what and EAP can do. They need the time away from work. You could read story and story and story after of these kinds of issues. I said I would answer the question what is the on boarding process; I can only speak to what we do in Fargo. We hire with a written test and you have to score high enough so you have some mental equity, pass a physical exam, and oral interview with a panel. You get placed on a list we have an opening, I call you up. Then they get to sit with me for half hour, 45 minutes and I interrogate them so to speak. I provide them with an interview, a conditional job offer. In that job offer they have seven other things that they need to complete. Blood work, physical, we send them to a psychologist where they spend two and half to three hours. We say it's because we want to see if they are crazy enough to come work for us but it's to make sure that they have the

right mental ability. That's something we recognize. We do everything that we can to make sure we have people that can handle it, but things happen over time. We can't prepare for everything.

Representative M Nelson: Can you give us an idea, through your experience on how many of the people that you know that have suffered PTSD would qualify under this requirement that the employment event must be determined with reasonable medical certainty to be at least 50% of the cause of the PTSD as compared to all other contributing causes combined and the PTSD must be determined to not pre-exist the employment event?

Steve: It's a tough question to quantify, in my experience in the size of departments that I'm looking at, maybe one or two personnel a year. I came from a 190 person fire department to a 121 personnel fire department. Just to relate a story with that; my former department they had an issue recently where they did everything right and it still turned out tragically. They followed all the steps, they did everything.

Representative M Nelson: It is normal for one event for the trigger, no PTSD beforehand, or is it an accumulation of events?

Steve: It's 50/50; it depends on the event and life experience. I read a story of a Philadelphia fire fighter that was a single event. The captain of his truck went back into save him because he thought he was in the building. We'll we was already out and the captain perished in event. That was a single event, my story is an accumulation. It really depends on the event. My estimation is what the event is, and what your life experience is. What have you seen in your career, it's just really hard to say.

Tom Ricker President of the North Dakota AFL-CIO: I support HB 1317. I did attend some of the intern committee hearings this summer and reviewed some of that, that Sedwick did a 350 page review at WSI. There was six or seven recommendations that came out of that performance review and I can't really understand 1102 was introduced by WSI, 1103 was introduced by WSI, 259 was introduced by WSI, 260 was introduced by WSI. These were all things that they said were critical to follow recommendations of Sedwick, but yet they didn't introduce a bill to correct this deficiency in the performance review. During the in term committee meeting they said even then that it wouldn't be a huge expense. The numbers of weeks you can collect are limited; the amount of time you can be off is limited. I just think it's a step in the right direction and my hats off to our first responders and fire fighters for the jobs they do because I don't think there is a lot of people that can do that without having issues. I for one could never do that job.

Bruce Berquet: I am a spokesperson for the North Dakota Peace Officer Association. We are in favor of this bill. Peace Officer Association is made up of memberships of all different disciplines in the law enforcement community. A little bit of my history I have been in law enforcement for 42 years. I started in 1971 and retired last year. I have some stories to tell about that and a lot of discussions that have come here I believe that there is accumulative impacts that do impact performance and even causing withdrawal and failure to engage. I was a police officer in a small town and I was a game warden for 41 years. Of those years I conducted training in underwater rescue and investigations and I have

probably been involved in about 65 drowning's. In the training I also trained about 8 or 9 dive teams in North Dakota and Minnesota, police officers and fire service people. The big thing about responding to an emergency situation is to be trained and prepared and accumulatively it can impact on how you respond the next time. The big thing I have seen in officers is it can really impact the attack of the next emergency and how they put themselves in the danger or how they help the public. I have some experience in other states where my ability to teach and train. I have a contact in Tennessee; he was a state game warden. He got called one morning to a farmer who had seen someone illegally hunting and after the farmer had called it in he went out there and grabbed these guys. The farmer had a gun and held them at gun point. The game warden gets there and time went by and the farmer turned to look at the game warden and these guys took off. What he did know was the guy lying in the seat had a riffle and he was ready to shoot the farmer. This went for about two hours before they got him cornered and the guy had an HKS firearm and fired and hit him twice. He was seriously injured but survived it. After a period of time he tried to come back to work. He took me out on the route where this had happened and I could see the bullet holes in the trees. So we brought him up to the in service in North Dakota to talk to our officers, to get some training and he was unable to come back to work. He couldn't get back in that truck. It took about six months before he had to leave the service. There was an Indiana water rescue team of game and fish officers that were doing training. During this training exercise two guys in a boat one of them got killed he was suffering drastically for over a year. When I was younger there was a car accident on interstate 94 west of Jamestown, ND. There was a bunch of kids in a vehicle that got hit head on and they killed four or five of those little kids. The state trooper got to the scene and it was his kids in that car. I would gather that there was some PTSD somewhere somehow when your own kids are involved. PTSD training and recovery would be important in that case.

Dan Donlin Bismarck, ND police chief: (Attachment #2)

Mike Link: Director of state radio. I was a 27 year law enforcement veteran. 10 years with the city of Beulah, ND where I was also the assistant chief of the volunteer fire department and rode on the ambulance service. I also worked 17 years of the beau of criminal investigation doing narcotics cases and investigations on serious crimes. A lot of people think that the people behind the phone don't necessarily have stress disorders when they take those calls. I can tell you that they do. I have one employee right now that has been diagnosed with PTSD. I had another employee that took a call of a person who drowned in her car. She was the last person to talk to that person. She came in did some counseling and about a month later she quit. She couldn't answer the 911 calls, she was gone for six months and decided to come back. With my history I can tell you that in some cases I think they go through more sitting behind the phone, helpless in doing anything than I would have as a law enforcement officer going to the scene. At least I can take action. In those cases such as domestic violence when the phones on the floor or they are talking to the spouse as the other spouse is beating them they listen to this go on and can't do a thing about it except get the ambulance or police there. They are on the phone until police or someone arrives. That wears on them and I offer you and amendment to put the dispatchers in on the bill for your consideration.

Jodi Bjorenson General Counsel WSI: (Attachment #3)

Representative Kasper: Top of page two, you state that to prove that the condition causing the PTSD was extraordinary and unusual when compared to the normal conditions of that particular employment, how the definitions in the bill would apply to the circumstances of the fire chief from Fargo, ND.

Bjorenson: If there is a better word than condition to use, by all means let's use work event or in their employment let use something to that effect. In terms of coverage what this contemplates I think is very narrow. A traumatic event that occurs and a response of PTSD diagnosis as a result of a specific event, I think it would be very hard to qualify under this definition for accumulative trauma, series of events PTSD. I can't rule it out completely but looking at the definition I think it would be difficult.

Representative Kasper: Your response is unrealistic. When these first responders are experiencing these life events, how can you possibly restrict if we are going to try to see what's going on? How can you possibly say you have to pinpoint one event and if you can't say one even cause it you're disqualified? How can we do justice to the intent of the bill, where it has been said work to find some evidence and some data about what's happening when we have a narrow definition like that? Would you not accept a definition that said event or series of events as opposed to condition?

Bjorenson: Those are all good points and certainly things we should talk about but I don't have an answer. I can tell you from our perspective that we brought forward a bill based on some other law that has been into effect, tried to define it as tightly as we could for this bodies consideration. If there's other ways to do it as a matter of policy you would like to look at accumulative trauma affect by all means. For starters as we are testing the waters so to speak, proof from a legal perspective is a lot easier for an adjuster if we are dealing with a single event as opposed to years of trauma.

Representative Ruby: The reason that this type of bill has failed in the past, is because we are opening a can a worms with more people who will have PTSD. Where do you decide to draw the line?

Bjorenson: All policy decisions that need to be determined, from our perspective we wanted to comply with the performance evaluation recommendation, bring something to this body that you could use. Should it move forward we could at least evaluate the experience to the best of our ability.

Representative Ruby: Who determines extraordinary and unusual?

Bjorenson: That part of the provision is a factual determination from someone from WSI.

Representative Ruby: Along the lines of expansion, when do you decide that first responders are receiving some sort of protection because of something unusual and extraordinary and not give the rest of the working employees who are covered under benefits.

Bjorenson: What we provided was a group of folks that reasonably can be concluded as more at a risk of experiencing this type of traumatic episodes and result in PTSD. Where you divide that line is a policy question. It is call that we look to you for guidance on.

Chairman Keiser: You mention it applies to the entire group, we have carved out exclusions. The presumption clause for police and fire is one example of a carve out that we have, but is it a basic tenant of workers comp. that if PTSD is a legitimate source of providing a benefit then there should be no limit on it. This is discriminatory. I would argue that we would have to fund everyone that suffers from it if they meet this criteria. We shouldn't be passing a discriminatory policy if this is a legitimate condition.

Bjorenson: I agree that that's a corner stone. There are situations where you look at areas that provide benefits to certain groups that may benefit more from that. The driving force is 2/3's of states now provide mental mental coverage wide or small. We agree with that in principle are there exceptions to that principle within our code? Yes there are.

Opposition, neutral.

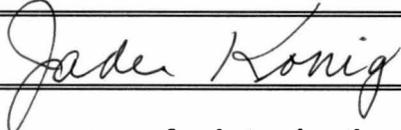
Closes the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1317
1/27/2015
22613

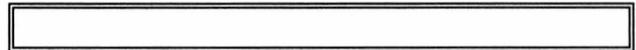
- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Workers' compensation coverage of first responders for posttraumatic stress disorder and provide for application & expiration date.

Minutes:



Representative Boschee: Do Pass

Representative Amerman: I second

Representative Keiser: We do have a proposed amendment. Page 1 line 30 after 60-01-15-1, insert a fulltime paid public safety telecommunicator as defined in 57-40.6-01. They want it to be included. Do we have a motion on the amendment?

Representative Ruby: Moves the adoption of the amendment.

Representative Boschee: I second

Representative Keiser: Further discussion on the amendment?

Motion to adopt amendment by Rep. Ruby. Seconded by Rep. Boschee
Voting 4 Yes, 10 No, Absent 1
Motion Fails.

Representative Boschee: Move a Do Pass

Representative Amerman: I Second

Representative Ruby: I resist the motion. One of the reason I supported the motion for the addition was obviously there is going to be a lot of those coming in if this passes. That was a me too amendment and to tell you the truth if we allow this in one area I think we

have to expand it and it will expand. If you are going to recognize this with the first responders then what about those patients that so upset them? Then you get to the emergency rooms and you have the nurses the doctors and other professions that people who are working and come up on an accident and see the same thing and a lot of times assist. This is obviously very narrowly written I think intentionally, but once it's in place there is no reason why everyone else shouldn't be.

Representative Kasper: I agree with Representative Ruby. If you look on the bill on page 2 line 10, where it specifically states that the condition causing, and then on line 13 the employment event, I think PTSD doesn't happen by one event. I think it's over a period of time where something builds up. I'm going to resist the bill.

Representative Amerman: The bill was written by WSI, because they felt something was needed in the code. I believe it was based under Nebraska statute. I had to last night attend a labor event and I spent a good portion of the night describing to my friends why volunteer fire fighters and so on weren't included in this and I will stand by that because mental illnesses and PTSD is here, it's always been here. It's very restrictive and maybe it won't be used but if there is a case or two. There has to be a starting place and parameters that can at least be discussed instead of having absolutely nothing on the book and I feel this is the way to do it.

Chairman Keiser: I too will not support this. If we determine this is a compensable injury it should be compensable. Last session we had pressure that we pass limited coverage for PTSD for anyone diagnosed and suffering from it as a result of a felony. If it's a legitimate qualifying injury then we should have it. I do oppose carve outs and workers comp. The one area we did a carve out and I know that many legislatures, if we could go way back in time would rethink that that carve out was under a presumption clause. We have a clause in workers comp. for fulltime police and fire that if you suffer any heart attack, lung disorder, major organ disorder, whether it's on the job or not it's presumed to be directly related to your job. The rationale there was a legitimate rationale. Especially with the meth labs, although it could happen in any situations, but meth labs especially it was easy to see. If you are going into a meth lab, especially if it's burning. Meth can be developed using a combination of ingredients and things and we are not certain that when you are going into a burning meth lab what new chemicals are being created as a result of the heat combining present chemicals. There is an exposure to their body that is different, but we did pass a presumptive clause. So what that meant was if you had a heart attack at work you have a heart attack while working but in the case of a police or fireman if they are home shoveling snow and have a heart attack they have full workers comp. coverage. It's presumed to be related so they are covered. We had problems with that. We put in requirement for the presumptive clause to help reduce the claims. Unless we can come up with a mechanism and not carve this out just be straight up, this is something we are going to cover. I don't want to discriminate against all the others.

Motion for Do Pass made by Representative Boschee. Seconded by Representative Amerman.

Total 5 Yes. 9 No. 1 Absent

Motion for Do Pass Failed

Representative Ruby: Moves a Do Not Pass

Representative Kasper: I second

Representative Kasper: I think it's a do nothing bill I don't think it's going to qualify the way it's written.

Representative Beadle: That's a fair argument and I just want to throw out there that whether or not we have an 11 dollar reduction on a fishing license is going to help veterans that are suffering from a mental disorder not commit suicide that someone can actually get treatment, might be a little more beneficial.

Motion to Do Not Pass by Representative Ruby. Seconded by Representative Kasper.

Voting 9 Yes. 5 No. 1 Absent

Floor Assignment Representative Ruby.

Date: Jan 27, 2015

Roll Call Vote: 21

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1317

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Ruby Seconded By Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut	<u>Ab</u>		Representative Louser		X
Representative Beadle		X	Representative Ruby	X	
Representative Becker		X	Representative Amerman		X
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog		X	Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	X	
Representative Laning		X			

Total (Yes) 4 No 10

Absent 1

Floor Assignment _____

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

*Motion fails
This is Page 1 line 30 after 60-01-15-1
insert a full time pd public safety
telecommunication as defined in 57-40-6-0*

Date: Jan 27, 2015

Roll Call Vote: 82

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1317

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Boschee Seconded By Rep Amerman

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut	<u>Ab</u>		Representative Louser		X
Representative Beadle	X		Representative Ruby		X
Representative Becker		X	Representative Amerman	X	
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog		X	Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	<u>Y</u>	
Representative Laning		X			

Total (Yes) 5 No 9

Absent 1

Floor Assignment Failed

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

Date: Jan 27, 2015

Roll Call Vote: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1317

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Ruby Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	Ab		Representative Louser	X	
Representative Beadle		X	Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	X		Representative Boschee		X
Representative Frantsvog	X		Representative Hanson		X
Representative Kasper	X		Representative M Nelson		X
Representative Laning	X				

Total (Yes) 9 No 5

Absent 1

Floor Assignment Rep Ruby

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

REPORT OF STANDING COMMITTEE

HB 1317: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING).
HB 1317 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1317

MB 1317
1-21-15

#1

ND representatives,

I was hurt on the job in a very real way.

I remember very clearly I was doing my morning station duties and was cleaning the toilet when the call came in. **“Seventeen year-old female not breathing”** My stress level bumps up on a run like this and I used that stress to prepare myself on the way to the scene. I prepared both my medical bag and myself. I thought to myself, “Seventeen year old not breathing on a weekend morning was most likely an overdose. It could also be a congenital problem because those are the only past runs I have gone to that came in sounding similar.” I was wrong.

Upon arrival at the house we found a police car and a frantic mother at the door ushering us to her daughter. The screams of the mother followed us down the hallway past fire-up posters made by other high school children. Entering the room I found an obviously dead and obviously sexually assaulted child. Her neck was red. Her face was gray and spotted with deep purple splotches from where blood vessels had burst while she had fought for her last breathes as she was strangled. Clothes had been pulled from her body and her legs were propped open with her knees up. A pillow was placed on her head. As a coworker checked her for a pulse I began to grab her ankles to move her to the floor to begin CPR, because chest compressions are not effective on a soft bed. My more experienced coworker grabbed my arm and told me to stop. She was cold and stiffening. This was a crime scene and this child was no longer our patient. I looked up and saw a female police officer standing in the room her face looking as sick as I felt. The screams and pain heard coming from the mother continued to pierce through me. I was told to stay in the room and not touch anything. I was to make sure none of the other responders entered the scene.

Standing in the room I didn't know where to look as this child's used body lay in front of me. I had seen plenty of death and broken bodies before including a double homicide but I had always been able to handle the scenes. This scene was crushing me. I covered her naked body with the blanket and placed the pillow back over her face to hide what I was seeing. (I felt guilty about this for a long time afterwards as I was changing the evidence.) As I stood in the room my life changed. I started to process the scene in my mind. What kind of a monster had caused this much damage? Worldviews that I had held were being shattered as my mind raced. Is God in control here? Someone quiet the mother! What power can God hold in this house today? I believed that I could feel Satan's heavy presence. I could feel Satan's overwhelming pride that he was the victor today as he showed the scene to each of us. I knew that not only had he harmed this child but that he was harming everyone that was a

①

witness. The family and friends of this child would be forever harmed and I was being harmed.

I could write a book about this day but I will try summarize the rest. More clues came together as we were on scene. How did someone get in here? There was no forced entry. Why is there duct tape on the counter? What other family needs to be notified? The mother told us a brother needed to be notified and he was in the basement. Through all of the screaming, through the sirens of police EMS and fire, through the noise of people trampling through this little house for near an hour, we were not alone. Police went down to get the brother to notify him of what had happened. He came upstairs and cried with his mother. Why is there a piece of duct tape stuck to his jeans?

The brother was convicted of murder and sexual assault of his sister's dead body. The damage done to me on this scene was evident the very same day. As tones went off I was filled with terror as I responded to an odor investigation in an apartment. I entered the building and was convinced that I could smell a decaying body.

My thoughts at home would get stuck in that bedroom and I couldn't lose the sick, heavy presence of evil or lose the sound of the mother's screams. Seeing a child's body used up for sexual purposes also crippled my understanding of what sexuality was. My desires were crushed.

I prayed for healing but I didn't want the healing to come with any hardening of my heart. I didn't want to carry any scars or calluses. I prayed for restoration. Healing has come to me with time and support. I have a supportive wife and have become the father of four children since responding to this scene.

I am a multi time all-American wrestler and have spent time with a United States Olympic Training Center mental skills trainer at the Olympic training center, teaching me to move forward through pain and through injury. I understand physical pain and injury very well. I need you to know mental pain and injury is equally real and equally crippling. Fire Departments are three times more likely to be affected by suicide than by a line of duty death.

Please help us when we are injured serving our communities,

Jamie Garvey
1431 4th St N
Fargo ND 58102

CHAPTER 57-40.6
EMERGENCY SERVICES COMMUNICATION SYSTEMS

57-40.6-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Assessed communications service" means a software service, communication connection, cable or broadband transport facilities, or a combination of these facilities, between a billed retail end user and a service provider's network that provides the end user, upon dialing 911, access to a public safety answering point through a permissible interconnection to the dedicated 911 network. The term includes telephone exchange access service, wireless service, and voice over internet protocol service.
2. "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
3. "Commissioner" means the state tax commissioner.
4. "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation.
5. "Consumer" means a person who purchases prepaid wireless service in a retail transaction.
6. "Emergency services communication system" means a statewide, countywide, or citywide radio system, land lines communication network, wireless service network, or enhanced 911 (E911) telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services.
7. "FCC order" means federal communications commission order 94-102 [961 Federal Register 40348] and any other FCC order that affects the provision of wireless enhanced 911 service.
8. "Prepaid wireless emergency 911 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under section 57-40.6-14.
9. "Prepaid wireless service" means any telecommunications service that provides the right to use a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount.
10. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
11. "Public safety answering point" or "PSAP" means a communications facility or combination of facilities operated on a twenty-four-hour basis which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
12. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
- * 13. "Public safety telecommunicator" means an individual whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through an emergency services communication system.
14. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
15. "Seller" means a person who sells prepaid wireless services to a consumer.
16. "Subscriber service address" means, for purposes of wire line subscribers, the address where the telephone subscriber's wire line telephone device is used and, for purposes of wireless subscribers, the place of primary use, as that term is defined in section 57-34.1-02.

HB 1317
1-21-15
#3

2015 HB 1317
Testimony before the House Industry, Business and Labor Committee
Presented by: Jodi Bjornson
Workforce Safety and Insurance
Date: January 21, 2015

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson, General Counsel with Workforce Safety and Insurance (WSI). On behalf of WSI, I am here to provide information on House Bill 1317. The WSI Board of Directors supports this bill.

This bill proposes new benefits for first responders who sustain posttraumatic stress disorder (PTSD) caused by an extraordinary and unusual mental stimulus during the course of employment.

Currently, N.D.C.C. section 65-01-02(10)(a) allows for the payment of claims for mental injuries when the mental injuries are caused by a compensable physical injury, the physical injury is at least 50% of the cause of the mental condition, and the mental condition did not preexist the physical injury. This standard applies to the entire work force, regardless of the profession in which the injured employee works. North Dakota law specifically excludes mental injuries arising from mental stimulus. N.D.C.C 65-01-02(10)(b)(10). These are commonly referred to as "mental-mental" claims.

The proposed legislation would carve out an exception to the "mental-mental" exclusion, and allow WSI to pay benefits for a particular kind of mental-mental claim, PTSD. In order to qualify for benefits, an injured employee must be a first responder. First responders are defined as full-time paid fire fighters; full-time paid law enforcement officers as provided in current workers compensation law; and full-time, paid emergency medical personnel as defined in Chapter 23-27, the law governing emergency medical services.

Under this bill, the first responder has the burden to prove that the condition causing the PTSD was extraordinary and unusual when compared to the normal conditions of that particular employment.

Like the current standard in place for other mental injuries, the employment event has to be at least 50% of the cause of the PTSD, and the PTSD cannot preexist the extraordinary and unusual employment event. The bill also requires diagnosis of PTSD by a licensed psychiatrist or psychologist. The diagnosis must meet established criteria in the *Diagnostic and Statistical Manual of Mental Disorders*, the standard classification of mental disorders used by mental health professionals in the United States.

Excluded from the bill are claims for PTSD arising out of personnel or human resource type matters such as disciplinary actions, terminations, or work evaluations. The benefits available to a qualifying first responder are up to twenty six weeks of disability benefits, and up to \$15,000 for all other benefits. A qualifying employee may receive both disability and "other" benefits, up to the established caps. We expect the "other" benefits category will be primarily for mental health related services and prescription drug costs.

A bill identical to this was considered by the Workers Compensation Interim Review Committee during the past interim, but was not forwarded on to Legislative Management for the Legislative Assembly's consideration. That bill was the result of recommendations from the 2014 Performance Evaluation of WSI conducted by the company Sedgwick. Sedgwick recommended that legislation of this kind be proposed.

As to the bill's application, the bill applies to injuries that occur on or after the effective date of this Act. This means both the employment event and the PTSD must occur after the effective date of this Act. Also, a sunset clause is proposed, expiring the law after July 31, 2015, if the Legislature Assembly does not affirmatively act to extend the law before it expires.

Our actuaries determined the costs this bill represents were not quantifiable. They do not anticipate a material impact on statewide premium levels, but noted that rates for the specific first responder rate classifications may increase over time as a result of the expanded coverage. However, there is not enough historical experience to derive estimates as to the extent of any rate increase.

This concludes my testimony and I would be happy to answer any questions you may have.