



# NORTH DAKOTA HOUSE OF REPRESENTATIVES

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## Representative Zachary Ista

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**COMMITTEES:**  
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Chairman Vedaa and Members of the Senate Committee on Government & Veterans Affairs:

I write in **support** of HB 1435, which allows continuing health insurance coverage for the surviving spouse and dependent children of any police officer, firefighter, corrections officer, or emergency medical services personnel killed in the line of duty. I am proud to have broad bipartisan support across both the House and Senate for this bill. I am especially thankful to my Grand Forks colleagues, including your Vice Chairman, Senator Scott Meyer, and Representative Emily O'Brien, for their help in bringing this bill forward. In the House, HB 1435 earned a 10-3-1 "do pass" recommendation in the Political Subdivisions Committee and a 75-18 favorable vote on the House floor. For the reasons set forth below, I urge the Committee to recommend a **DO PASS** on HB 1435, but I pray the bill will *never* be needed again in North Dakota.

On May 27, 2020, our state—and my Grand Forks community specifically—suffered an immense loss when Officer Cody Holte was killed in the line of duty. As the members of the Legislative Assembly know well, Officer Holte represents the best our state has to offer, a true hero. Not only did he serve with distinction as an officer in the Grand Forks Police Department, but he was also a First Lieutenant in the North Dakota National Guard. We all recall how Governor Burgum beautifully captured Officer Holte's bravery and courage in his heartfelt tribute to him during the State of the State Address.<sup>1</sup>

Officer Holte, though, is not unique among the brave men and women who volunteer for careers that require them to run towards danger for our safety and protection. We remember also people like Officer Jason Moszer of Fargo, whose end of watch was February 11, 2016. Indeed North Dakota is blessed with countless emergency services workers who know the duties of their job require, when necessary, that they place themselves in harm's way. And try as we might, there are no laws we can pass to eliminate entirely the risk these heroes face on the job.

But what we can do is to make sure we take care of surviving spouses and children of our fallen heroes when tragedy does strike. That's the intention of HB 1435, which provides an additional layer of protection to the families of fallen police officers, firefighters, corrections officers, and EMS workers killed in the line of duty. In that tragic event, HB 1435 would allow the surviving spouse and dependent children to continue receiving healthcare coverage by enrolling in the state employees' plan. It likewise extends retroactively to cover any families who lost loved ones in the line of duty since the start of 2010.

If the bill were enacted, North Dakota would join 17 other states who currently offer similar protection, including Alabama, Arizona, Minnesota, Utah, California, and Texas. I believe it is time for North Dakota to join

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<sup>1</sup> I further refer the Committee to the testimony of Greg Tehven (a member of Officer Holte's family), Rep. Mary Adams (a friend of the family), and Tom For (on behalf of Grand Forks County) in support of HB 1435.

this list of states, recognizing that we owe the families of fallen heroes both a debt of gratitude and actual, tangible protections that help them through what surely would be the darkest times imaginable for any family. Amidst such darkness, one can hardly fathom how difficult it would be to concentrate on the tedious task of acquiring replacement health insurance coverage while still overcome with grief. Indeed, the severe emotional toll of such a tragic loss may even give rise to an urgent need to seek out healthcare just as a family’s coverage expires. This bill hopefully would take one small burden off a family’s plate in its hour of need.

Let me briefly discuss the details of the bill.

*First*, it extends the protections I’ve discussed to the spouse/dependents of all law enforcement officers, corrections officers, EMS personnel, and firefighters who are employed by the state, a political subdivision of the state, or an institution under the control of the State Board of Higher Education (page 1, lines 16-20). This definition does not extend any coverage, then, to persons who serve in these roles in a volunteer capacity or as employees of a private company provider emergency response services.

*Second*, the bill defines “dies in the line of duty” and “line of duty activity” (see page 1, lines 12-15, and page 1, line 21 through page 2, line 2) to include such deaths that are the direct and proximate result of a personal injury sustained while engaging in an authorized employment-related action (whether on- or off-duty).

*Third*, the bill provides that any qualifying beneficiary shall be offered health insurance coverage through the North Dakota state employees insurance plan at no charge (page 2, lines 5-9). This means that, like eligible state employees, the beneficiary would pay no premiums. Such beneficiaries still would be responsible for any co-payments or other expenses for services rendered. This clause also makes clear that such coverage would extend to any dependent child that was conceived but unborn at the time of the qualifying death.

*Fourth*, the bill provides that any coverage extended under this new law would continue until a spouse reached age 65 or a dependent child reached age 26 (page 2, lines 10-13) These limitations mirror when a spouse would be eligible for Medicare and a child is no longer considered an eligible dependent under existing healthcare policy. I note that prior versions of the bill would have ceased spousal coverage upon re-marriage (as many other states do), but there was concern this would disincentive a spouse from re-marrying purely for pecuniary reasons.

*Fifth*, and finally, the bill includes clauses requiring notice be provided to eligible persons, that nothing in the bill affects any existing provisions of the WSI code sections, and providing for retroactive application for any line of duty deaths of qualifying emergency services providers since January 1, 2010. To be clear, though, any benefits flowing from this bill would only be prospective, meaning there would be no obligation to reimburse survivors for any prior insurance costs they may have incurred during this look-back period.

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When evaluating the merits of this bill—including whether it is financially viable for the state—it is important to look at how often line of duty deaths have happened in North Dakota. According to the Officer Down Memorial Page, North Dakota has experienced 58 line of duty police and corrections officer deaths dating back nearly 140 years to 1882. By my count, half of these deaths occurred before 1950, with 10 occurring in my lifetime (*i.e.*, since 1985). Likewise, the North Dakota Fire Memorial honors 20 line of duty deaths among firefighters since 1907, with 6 such deaths occurring in my lifetime. While each of these statistics represents a unique tragedy, we can take some solace in the fact that line of duty deaths happen only rarely in North Dakota. To the best of my knowledge, the retroactive coverage contemplated in HB 1435 would extend to the families of five (5) fallen police officers killed in the line of duty since January 1, 2010. Based on public reports, the number of possible beneficiaries is approximately 16 (though it is unknown whether all would opt for the coverage

provided by the bill). Thus, based on this data and historical line-of-duty-death data, my expectation is that HB 1435 would not impose a substantial financial burden on the State or other beneficiaries of the state health insurance plan.<sup>2</sup>

Let me also briefly address an additional minor point of opposition the bill received in the House. Some have suggested it could be a violation of North Dakota's constitutional anti-gifting clause found in Article X, § 18. While I do not question the earnestness of those concerns, I do not share them (nor did Chairman Jason Dockett, as he refuted such concerns in remarks on the House floor). I have spoken with the Attorney General, himself a long-time and passionate supporter of our law enforcement community, and he assures me his office stands ready to defend this law in court if ever challenged. Should this Committee desire, I am happy to go into more detail on this legal question.

In conclusion, Mr. Chairman and members of the Committee, I believe that HB 1435 represents a statement of North Dakota values: that those who pursue careers in law enforcement and public safety should be honored as the heroes they are; that those who willingly put themselves in harm's way to keep us safe deserve our gratitude and our support; and that when someone pays the ultimate price in service to our state, we should make sure we support the family they leave behind. For these reasons, I urge the Committee to recommend **DO PASS** on HB 1435, and I stand ready for your questions.

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<sup>2</sup> I understand that NDPERS has prepared a fiscal note for HB 1435 indicating the estimated cost to cover all possible beneficiaries over the upcoming biennium, with such cost spread across all plan participants through a *de minimis* premium increase to each contract (currently estimated to be just \$0.55 per contract per month).