

TESTIMONY OF

Tag Anderson, Director Risk Management Division

Chairman Schauer and members of the committee, my name is Tag Anderson. I am the Director of the Risk Management Division of the Office of Management and Budget (OMB). I appear today in favor of SB 2233.

The notice of claim requirement outlined in N.D.C.C. 32-12.2-04 serves several very important purposes that have been recognized by the North Dakota Supreme Court including "prompt investigation while evidence is still fresh; repair of any dangerous condition; quick and fair settlement of meritorious claims; and preparation of fiscal planning to meet possible liability." *Cooke v. University of North Dakota*, 1998 ND 238. The ability to collect evidence when it is fresh to properly defend the state and its employees, as well as pay meritorious claims depends on the ability to have accurate first-hand information which diminishes over time. In addition, because agency contributions are actuarially determined every two years prior to agency budget preparation before each legislative session, it is important that claims reserves are accurate which is facilitated by the 180-day notice of claim provision. Without it, there is greater degree of uncertainty in projecting funding levels.

Importantly, state entities are required to report incidents that could give rise to a claim to the Risk Management Division using our online incident reporting system. Following a report that involves possible damage or injury to a third-party, we promptly send a letter and claim form to the individual and outline the notice of claim requirements. The notice of claim provision serves the important interests outlined above and protects the state and its employees, but it is never used to disadvantage a citizen that may have a claim and only presents an obstacle to those who are not diligent in reporting an issue or concern.

Under current law, the time period for providing a notice of claim involving a death is one-year. This legislation would expand this to include claims for serious bodily injury as defined in N.D.C.C. 26.1-41-01. The Risk Management Division does not oppose this change and agrees that using the definition from the no fault law is appropriate. The state does file as self-insured with the Insurance Department and therefore the state is a secured person for purposes of the application of no fault involving the operation of state-owned or leased motor vehicles. Therefore, an injured person would need to first look to their no-fault carrier for minor injuries which potentially could delay seeing a need to submit a claim. The Risk Management Division does not believe this will substantially interfere with the important interests outlined above and therefore we do not oppose these changes.

Chairman Schauer and committee members, this concludes my testimony. I would be happy to answer any questions. Thank you.