2023 SB No. 2214
Testimony before the Senate IB Committee
Presented by Anne Green, Workforce Safety and Insurance
Date: January 24, 2023

Mr. Chairman and Members of the Committee: My name is Anne Green, Director of Legal Services with Workforce Safety & Insurance (WSI). I am here today to provide testimony regarding SB No. 2214. The WSI Board of Directors unanimously opposed this bill.

SB 2214 adds an exemption to the definition of employee and removes athletes participating in a contact sport from their employer's obligation to cover them for workplace injuries. Under this proposed bill, sports organizations involved in contact sports would only be required to maintain workers' compensation coverage on their non-athlete personnel; coaches, trainers and office staff.

With limited exceptions, North Dakota employers are required to carry workers' compensation coverage through WSI. The legislature has exempted some workers by excluding them from the definition of "employee": real estate brokers, members of boards of directors not employed by the businesses they serve, newspaper delivery workers, owners of businesses and their children under age 22. The definition of "hazardous employment" also excludes agricultural workers, railroads, certain transporters, domestic employees and members of the clergy. The last class of workers removed from protection under the Workers Compensation Act was in 1997 where the age of a child who could be excluded was raised from 18 to 22.

In addition to medical coverage for workplace injuries, WSI provides wage replacement benefits, permanent partial impairment benefits and retraining opportunities. Workers' compensation claims, from an insurance perspective, have a long tail. That means the obligation of the payor/insurer could extend for decades. WSI has claims in which we continue to pay benefits from 1960. The exposure on any given claim could be minimal, a few medical appointments, to millions of dollars.

WSI remains the exclusive insurer in North Dakota, meaning all North Dakota employers must purchase workers' compensation coverage from WSI. WSI is one of four remaining monopolistic funds in the country. Again in 2022, WSI secured its position as the workers' compensation insurer with the lowest premiums in the country, while maintaining a solid benefit package.

In addition, workplace injury claims in North Dakota have decreased over 30% in the past decade. Our focus on safety discount programs, grant programs, and education programs, combined with our nurse case management and return to work programs have proven to be effective resources for employers who take advantage of these programs.

The bill before you today excludes from workers' compensation benefits professional athletes who are engaged in "contact sports." Other states have addressed similar exclusions. Of the 50 states and 10 Canadian Provinces, 9 jurisdictions exclude or limit the coverage required for professional or semi-professional athletes. For example, Nevada does not require sports team to cover their players for workers' compensation purposes while Alaska exempts coverage for players but requires their employer to provide medical coverage for both work related and non-work related injuries.

WSI's core purpose, a foundational element of our strategic plan, is to care for injured workers. The workers affected by SB 2214 are young athletes pursuing a career in professional sports. By

definition, physical risk-taking is a part of the job. The exclusion of athletes whose primary job duty is to engage in physical altercation is at odds with WSI's mission of caring for injured workers.

Lastly, exemptions from workers' compensation coverage have been sparingly provided by the legislature over the past 100+ years. The precedent set by this proposed legislation is of real concern.

This concludes my testimony. I am happy to answer any questions at this time.