

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1260

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1260

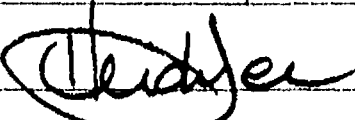
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1260

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 30, 2001

Tape Number	Side A	Side B	Meter #
1	X		1.2-36.8
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

R. Frank Wald: Sponsoring bill allowing employer to receive 100% of benefits if both employee and Workers Compensation decide not to pursue.

Dick Johnson: (4.40) *Workers Compensation Board*  
**Written Testimony in Support of Bill.**

Tammy Dolan: (8.20) *ND Workers Compensation*  
**Written Testimony in Support of Bill.**

R. Ekstrom: (13.88) What is this deductible based on?

Dolan: Annual basis per injury.

R. Ekstrom: How does this affect injured workers' benefits?

Dolan: No effect on employee.

C. Berg: What is a typical deductible policy?

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1260

Hearing Date Jan 31, 2001

Dolan: \$100,000 is typical, but the range is anywhere from \$50,000 and up.

R. Ekstrom: how does an injury affect experience rate?

Dolan: The rate and cost are looked at annually.

R. Jensen: What exactly is the purpose of this bill?

Dolan: If Workers Comp. and the employee both dismiss the case, the employer can still sue.

Mary Skaj: I support this bill.

Mike Wolf: *ND Assoc. Counties*

**Written Testimony in support with amend.**

C. Berg: We'll close the hearing.

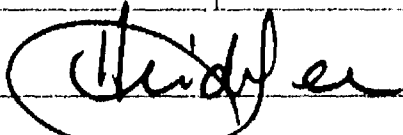
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1260

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 30, 2001

Tape Number	Side A	Side B	Meter #
3	X		8.04-15.00
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Kelsner, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: The bureau didn't get a chance to respond to our question whether to adopt the amendments or to use the administrative rule.

Paul Kramer: *Workers Comp Director* I am uncomfortable with the language because it changes how the subrogation works in that it would give 100% of the subrogation to the employer. We'd like to leave it out of the Century Code and deal with it through the administrative rule and individually in each deductible contract. In the contract we can specify that we will prorate the employers portion.

Chairman Berg: What doesn't this bill do?

Kramer: It does not specify the employers place in the scenario. We'd also like to address that through the administrative rules.

Page 2  
House Industry, Business and Labor Committee  
Bill/Resolution Number HB 1260  
Hearing Date Jan 30, 2001

Mary Skar: I have a problem with the administrative rules including this because it take to long.

We'd like it fixed in the Century Code.

Chairman Berg: What are the committee's wishes?

Rep Severson: I move a do pass.

Rep Pietsch: I second.

11 yea, 2 nay, 2 absent. Carrier Rep Jensen.

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/15/2001

Bill/Resolution No.: HB 1260

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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  
 2001 LEGISLATION  
 SUMMARY OF ACTUARIAL INFORMATION**

**BILL DESCRIPTION:** Subrogation on Deductibles

**BILL NO:** HB 1260

**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 an employer with a deductible policy to keep 100% of the recovery in a third-party action if an injured worker or NDWC choose not to pursue the third-party for recovery of damages.

**FISCAL IMPACT:** We understand that the additional costs and potential recoveries arising out of this change will accrue to the employer, not NDWC. Thus, we do not believe that the proposed legislation will result in a material change to rate or reserve levels.

**DATE:** December 21, 2000

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, 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.*

<b>Name:</b>	Paul R. Kramer	<b>Agency:</b>	ND Workers Compensation
<b>Phone Number:</b>	328-3856	<b>Date Prepared:</b>	01/15/2001



Date: 1-30-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~What have to type Bill/Resolution No.~~ 1260

House Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Severson Seconded By Pietsch

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser			Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorn		✓	Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe		✓

Total (Yes) 11 No 2

Absent 2

Floor Assignment Jensen

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

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2001 8:24 a.m.

Module No: HR-26-3147  
Carrier: Jensen  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1260: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1260 was placed on the Eleventh order on the calendar.**

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1260

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1260

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 05, 2001.

Tape Number	Side A	Side B	Meter #
1		x	27.8 to 39.6
(March 14/01) 1		x	30.3 to 34.2
Committee Clerk Signature <i>Doris B. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1260 relating to third-party recovery on workers' compensation deductible accounts; and to provide an effective date.

**Bob Indvik**, Vice-Chairman, ND Workers' Compensation Board of Directors. Provided brief description of the bill and Board's position on the bill, in favor. Written testimony attached.

**Tammy Dolan**, VP for Employer and Fiscal Services at NDWC. Supports this bill. Written testimony attached.

**Representative Frank Wald**, District 37, co sponsor. This bill would allow larger employers who have high deductibles to subrogate against a third party who may have caused injury to one of their employees where they in effect paid the employees medical bills. It would affect only about fifty employers in the state. Urge do pass.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1260

Hearing Date March 05, 2001.

**Michael Wolf**, ND Assn. of Counties. We support this bill.. We are one of the participants in the deductible program. Being that we are assuming the risk for those smaller claims we feel this is a very good bill that will allow us to recoup some of the money. Claims this applies to are those the employees nor the bureau are willing to pursue.

**Chuck Peterson**, GNDA, in favor. Urges do pass. Written testimony attached.

No opposing testimony. Hearing concluded.

March 14, 2001. Tape I-B-30.3 to 34.2

Committee reconvened. Discussion held.

**Senator Klein**: Motion: do pass. **Senator Krebsbach**: Second. Roll call vote: 7 yes; 0 no.

Motion carried. Floor assignment: **Senator Klein**.



**REPORT OF STANDING COMMITTEE (410)**  
March 14, 2001 1:48 p.m.

Module No: SR-44-5601  
Carrier: Klein  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1260: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1260 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1260



## **House Bill Numbers 1260, 1412, 1429, & 1436**

**Fifty-Seventh Legislative Assembly  
Before the House Industry, Business, & Labor Committee  
January 30, 2001  
Testimony Regarding Workers Compensation Legislation**

Good morning Chairman Berg, members of the House Industry, Business, and Labor Committee:

I'm Dick Johnsen and I am a member of the North Dakota Workers Compensation Board of Directors. I am here this morning to testify regarding the Board's position on several pieces of legislation that will affect the state's workers' compensation system.

In the interest of time, I will provide you with a brief description of four of the bills you will be hearing this morning and tell you about the recommendations the Board made regarding each of the bills.

The first is House Bill No. 1260, which the Board unanimously supports. House Bill No. 1260 would allow an employer with a deductible policy to keep 100% of the recovery in a third-party action if an injured worker or the Bureau chooses not to pursue the third-party for recovery of damages. This bill relates to a small number of employers, and it will not have an impact on rates or reserve levels.

The second bill is House Bill No. 1412. It would allow payment of preventive treatment for communicable diseases resulting from performing emergency medical procedures that an employer requires. The Board is opposed to this bill the way it is written because it is too broad. The Board agrees that amendments better defining the group covered and the type of diseases covered would enhance the bill and may make it easier to support.

House Bill No. 1429 is the third bill. This bill would eliminate the payroll cap and require NDWC to calculate premium based on gross payroll. This bill would include a payroll cap of four-times the state's average annual wage. The cap based on this year's figures would be approximately \$92,000. The Board unanimously supports this bill. The decision to move towards a gross payroll calculation is a recommendation from our most recent performance evaluation. Calculating premium on gross payroll is an industry standard and would allow North Dakota to more easily compare rates with other states. Any change to the system would be revenue neutral to the Bureau.

The final bill is House Bill No. 1436. The Board unanimously opposes this bill because it would repeal the \$250 medical assessment the Bureau collects from employers on each claim. The \$250 medical assessment accounts for approximately \$3 million in annual income for the Bureau. If NDWC were to do away with this assessment, premiums would have to be increased by about three percent. The Board also feels the assessment is a good way to remind employers of the importance of providing a safe workplace.

I thank you for your time and consideration this morning. On behalf of the Board of Directors, I ask for your favorable consideration on House Bills numbered 1260 and 1429. I ask that you do not give favorable consideration to House Bills numbered 1412 and 1436.

House Bill No. 1260

Fifty-Seventh Legislative Assembly  
Before the Industry, Business and Labor Committee,  
January 30, 2001  
Testimony Regarding Subrogation on Deductibles

Mr. Chairman, Members of the Committee:

My name is Tammy Dolan, and I am the Vice President for Employer and Fiscal Services at North Dakota Workers Compensation (NDWC). I am here today to testify in support of House Bill No. 1260 which modifies the subrogation interests for employers enrolled in the deductible program. The Workers Compensation Board of Directors unanimously supports this bill.

In 1999, the Legislative Assembly passed legislation that allowed NDWC to establish a deductible. Since that time, 15 of NDWC's larger accounts have chosen to participate in the deductible program. The savings in premium dollars to these employers is substantial. Depending on factors such as experience rate and safety discounts, an employer enrolled in the deductible program may decrease his premium by more than 50%.

When workplace accidents occur, a third party (driver of another vehicle or an equipment manufacturer) may be responsible for the accident. Typically, the injured worker would sue the third party to recover costs and damages. Under §65-01-09, NDWC is subrogated, or entitled to, 50% of any recovery received through a third party action. NDWC is also then responsible for 50% of the attorney fees and costs related to the case. Monies collected by NDWC are applied against costs previously incurred by NDWC and credited to the employers account.

There are some situations where the injured worker and NDWC choose not to pursue a potential third party action. 2001 House Bill No. 1260 allows an employer participating in the deductible program to pursue a potentially liable third party only when NDWC and the injured worker have specifically stated their intent not to pursue the action. In this case, the employer bears 100% of the costs associated with the action and is entitled to 100% of any recovery.

NDWC believes it will be a rare occurrence to forego its subrogation interest in a third party action. Understandably, if it appears claims costs and reserves on a claim will create a liability to the fund, NDWC would not forego its interest in any third party recovery. Given the requirement in this bill that both NDWC and the injured worker purposefully decline to pursue a potentially liable third party, NDWC requests your favorable consideration of 2001 House Bill No. 1260.

Thank you for your time and consideration. I would be happy to attempt to answer any questions you may have at this time.

TESTIMONY TO THE  
INDUSTRY, BUSINESS, & LABOR COMMITTEE  
Prepared January 30, 2001 by the  
North Dakota Association of Counties  
Michael W. Wolf, County Employer Group Manager

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CONCERNING HOUSE BILL NO. 1260

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Mr. Chairman, members of the committee. Good morning, my name is Michael Wolf and I am the Manager of the County Employer Group (CEG) for the North Dakota Association of Counties (NDACo). Thank you for allowing me the opportunity to appear before you today. I am here today testifying in support of HB1260 as it relates to employers in the Deductible Program who can choose to pursue a third party recovery in the event the Bureau and the injured worker choose not to. However, I do have an amendment to the bill that addresses the distribution of third party recoveries for employers in the Deductible Program.

The County Employer Group is one of several employers who are currently participating in North Dakota Workers Compensation's (NDWC) Deductible Program. Under the Deductible Program, for assuming a large part of the risk, an employer receives a reduced premium. In the case of the County Employer Group, we are responsible for the first \$100,000 for every claim that is filed.

This bill will allow participants in the Deductible Program to pursue third party liability in the event NDWC and the injured employee choose not to. Typically this will involve small medical claims where there is no time loss. Our amendment addresses the issue of how the money could be distributed in those cases in which NDWC or the employee choose to pursue a third party recovery.

Employer's benefit from third party recoveries through experience rating and costs that wouldn't be charged against a specific rate class which could have an impact on rates. However, for employers in the Deductible Program, recovering actual claims costs from a third party recovery could have a bigger impact for that employer. In any event, any third party recovery, regardless of who receives what portion, would still reduce the chargeable costs to an employers experience rating and also reduce the costs charged to a specific rate class.

Under current administrative rules, in the event a third party recovery on a claim is made, NDWC's subrogation interest must first be applied to the amounts paid on the claim by NDWC in excess of the deductible amount. For example: If a claim totals \$150,000, the employer would be responsible for the first \$100,000 and NDWC would be responsible for \$50,000. If there were a \$50,000 third party recovery, under current administrative rules, NDWC would receive the entire \$50,000. In this

scenario, the employer assumes all of the risk and NDWC assumes no risk. NDWC has set the premium rates under the Deductible Program assuming they could be exposed to some risk.

In visiting with Tammy Dolan, all indications from her were that if claims costs were less than the deductible amount, NDWC would apply any recovery towards the cost of the claim and reduce the liability of the employer. This issue is not specifically address in administrative rule and Tammy indicated that this issue could be addressed further in administrative rule. However, we are concerned with the lengthy time period in adopting administrative rules and the exposure we could face until the changes became effective. Since statute or administrative rules do not specifically address how third party recoveries would be distributed to employers in the deductible program, our amendment attempts to do so.

I have visited with a couple of the bill sponsors concerning our amendment and I have also visited with NDWC concerning our amendment as well. We would certainly be open to meeting with NDWC concerning our amendment to make sure that it is workable for all parties involved.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 16, after the period insert "If the bureau or the injured worker chooses to pursue the third-party action, the employer with a deductible policy under this section is entitled to any or all subrogation recovery up to the deductible amount agreed to by contract."

Renumber accordingly

**House Bill No. 1153, 1161, 1162 and 1260  
Engrossed House Bill No. 1419, and 1469  
Re-engrossed House Bill No. 1281**

**Fifty-Seventh Legislative Assembly  
Before the Senate Industry, Business and Labor Committee  
March 5, 2001  
Testimony Regarding Workers Compensation Legislation**

Good morning Chairman Mutch, members of the Senate Industry, Business, and Labor Committee:

My name is Bob Indvik, and I am the Vice-Chairman of the North Dakota Workers Compensation Board of Directors. I am also the Chairman of the Board's Legislative Committee. I am here this morning to testify regarding the Board's position on several pieces of legislation that will affect the state's workers' compensation system.

In the interest of time, I will provide you with a brief description of the bills you will be hearing this morning and tell you about the recommendations the Board made regarding each of the bills.

The first is House Bill No. 1153, which the Board supports. House Bill No. 1153 does a variety of things. It redefines "fee schedule". It prohibits an employer from requiring an employee to use personal leave during periods of work-related disability. It also allows NDWC to establish incentives for employers who hire previously injured workers in physically appropriate jobs. And it makes a claimant's social security number private and requires an employer to limit the people who have access to its employees' claim files.

The second is House Bill No. 1161. It would increase the awards given for Permanent Partial Impairments. This bill is a result of an independent PPI study that was mandated by the 56<sup>th</sup> Legislative Assembly. The Board agrees with the results of the study and supports the bill and its proposed amendment. House Bill No. 1161 would increase awards given for certain amputations and the loss of one eye. It would also adopt the 5<sup>th</sup> Edition of the AMA Guidelines. The proposed amendment to the bill would reduce the PPI award threshold from 16% to 11% as recommended by the study.

House Bill No. 1162 is also supported by the Board. It changes the supplementary benefit structure to provide for supplementary benefits to be paid to all death benefit recipients or to all permanently and totally disabled workers who have been receiving benefits for an extended period of time.

House Bill No. 1260 would allow an employer with a deductible policy to keep 100% of the recovery in a third-party action if an injured worker and the Bureau chooses not to pursue the third-party for recovery of damages. This bill relates to a small number of employers, and it will not have an impact on rates or reserve levels. The Board supports House Bill No. 1260.



Re-engrossed House Bill No. 1281 would allow the Board to set the workers' compensation budget on an annual basis, and requires NDWC to report to the Legislative Assembly on how its funds were spent. The Board supports Re-engrossed House Bill No. 1281. It is a recommendation from our most recent performance evaluation. The Board believes the authority to set the workers' compensation budget annually would allow NDWC to keep up with industry trends, and to allow most contracted services to be brought in-house and reduce cost.

The Board supports Engrossed House Bill No. 1419. It allocates \$150,000 to the Legislative Council to contract with an industry expert to conduct a study of the effects of opening the state's workers' compensation system to competition. The Board has not taken a position on whether or not competition is appropriate for North Dakota. A study of the pros and cons of competition would be beneficial for the Board and ultimately, will help the Legislative Assembly make an informed decision on this subject.

Finally, the Board has taken a neutral position on Engrossed House Bill No. 1469. It creates exemptions for certain custom agriculture operations. The Board originally opposed this bill when it was introduced, but would have supported a study on the issue.

This concludes my testimony regarding the Board's position on the several pieces of legislation that you have before you this morning. I would encourage you to give favorable consideration to House Bill Numbers: 1153, 1161 with the proposed amendments, 1162, 1260, 1281, and 1419.

NDWC staff will provide you with more details about each of the bills and its effect on the North Dakota Workers Compensation system.

**House Bill No. 1260**

**Fifty-Seventh Legislative Assembly  
Before the Senate Industry, Business and Labor Committee,  
March 5, 2001  
Testimony Regarding Subrogation on Deductibles**

Mr. Chairman, Members of the Committee:

My name is Tammy Dolan, and I am the Vice President for Employer and Fiscal Services at North Dakota Workers Compensation (NDWC). I am here today to testify in support of House Bill No. 1260 which modifies the subrogation interests for employers enrolled in the deductible program. The Workers Compensation Board of Directors unanimously supports this bill. The House approved this bill by a vote of 97 - 1.

In 1999, the Legislative Assembly passed legislation that allowed NDWC to establish a deductible. Since that time, 15 of NDWC's larger accounts have chosen to participate in the deductible program. The savings in premium dollars to these employers is substantial. Depending on factors such as experience rate and safety discounts, an employer enrolled in the deductible program may decrease his premium by more than 50%. In exchange for the premium savings, the employer accepts the liability for the claims costs up to the selected level of deductible.

When workplace accidents occur, a third party (driver of another vehicle or an equipment manufacturer) may be responsible for the accident. Typically, the injured worker would sue the third party to recover costs and damages. If the injured worker chooses not to pursue an action, NDWC has the option to proceed with the case. Under §65-01-09, NDWC is subrogated, or entitled to, 50% of any recovery received through a third party action. NDWC is also then responsible for 50% of the attorney fees and costs related to the case. (50% of the award and attorney fees belong to the injured worker.) Monies collected by NDWC are applied against costs previously incurred by NDWC and credited to the employers account.

There are some situations where the injured worker and NDWC choose not to pursue a potential third party action. 2001 House Bill No. 1260 allows an employer participating in the deductible program to pursue a potentially liable third party only when NDWC and the injured worker have specifically stated their intent not to pursue the action. In this case, the employer bears 100% of the costs associated with the action and is entitled to 100% of any recovery. Under current law, they are only entitled to 50% of the recovery. The other 50% is awarded to the injured worker.

NDWC believes it will be a rare occurrence to forego its subrogation interest in a third party action. Understandably, if it appears claims costs and reserves on a claim will create a liability to the fund, NDWC would not forego its interest in any third party recovery. Given the requirement in this bill that both NDWC and the injured worker purposefully decline to pursue a potentially liable third party, NDWC requests your favorable consideration of 2001 House Bill No. 1260.

Thank you for your time and consideration. I would be happy to attempt to answer any questions you may have at this time.

3-5-01 STATEMENT BY CHUCK PETERSON, REPRESENTING GNDA,  
REGARDING HB 1260 WORKER'S COMPENSATION LEGISLATION.

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee. I am Chuck Peterson, a member of GNDA, and a North Dakota businessman. Thank you for the opportunity to provide testimony in support of HB 1260.

The Greater North Dakota Association is the voice of business and the principle advocate of positive change in North Dakota. As a member of GNDA we represent over 1000 business and professional organizations from all areas of North Dakota. GNDA is governed by a 25 member Board of Directors elected by our membership.

I also speak for the Associated General Contractors, the North Dakota Petroleum Council, the North Dakota Retail Petroleum Marketers Association, the North Dakota Motor Carriers Association, the Automobile Dealers and Implement Dealers Association, North Dakota Grocers Association, the Bismarck-Mandan Chamber of Commerce, and the North Dakota Hospitality Association.

We have reviewed the changes that will be brought about by HB 1260. We find that this legislation will allow the employer with a deductible policy to keep 100% of the recovery from third party action if an injured worker or NDWC chooses not to pursue third party recovery for damages. Currently it is a 50/50 split.

I am aquatinted with a trucking company that was faced the problem of recovering the cost of their loss when an employee chose not to take action to recover the cost of an injury. In this case the employee was fully satisfied with the benefits received from the Bureau which were passed on to the employer. The employee had no reason to seek further redress and as a result the company has had to absorb costs that should have been recovered.

We request your support of HB 1260