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Operator's Signature

10/16/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HCR 3050

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Alister Richard
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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3050

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2/17/03

Tape Number	Side A	Side B	Meter #
1	x		6.3-end
1		x	0.0-2.1
Committee Clerk Signature <i>Heidi Hammer</i>			

Minutes: Chairman Keiser opened the hearing on HCR 3050.

Rep. Ekstrom introduced HCR 3050 (see attached #1). She distributed written testimony on behalf of Tim Effertz, Minot, who could not attend today's hearing in person (see attached #2).

This study would pursue the possibility of taking some portion of a permanent impairment award administered by WCB/WSI, have them look at actuarials and take some portion of permanent impairment awards to be put toward a death benefit. All provisions that are currently in law would still be in force so if they die within six years of work related injury this life insurance policy would not come into effect. These policies would modest, about enough to cover funeral expenses. This would not be retroactive, but occur from this point forward.

Rep. Froseth: Could we tie, with our current death benefits package, an insurance policy for the surviving spouse? A long term basis wouldn't be that costly, a \$500,000 policy has \$300-400 yearly premium.

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10/16/03
Date

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House Industry, Business and Labor Committee

Bill/Resolution Number HCR 3050

Hearing Date 2/17/03

Rep. Kasper: Life insurance premiums are low when you are young, mortality charges become terribly expensive when purchasing a term policy with lower premiums on the front end where you're not funding some type of cash reserve to help offset premium and death benefits in later years. It might be more costly that we imagine but maybe that's what this study will find out.

Rep. Ekstrom: There's a threshold, there's a correlation between how much impairment there was, a sliding scale wouldn't impact the fund too badly could provide a death benefit.

Rep. Kasper: How many do you think will be disabled, when you examine the whole pool? The fund must build a cash reserve in order to be self funded within Workers Comp Insurance. Unless you cover everybody to begin with, that creates a huge cost right out of the chute.

Rep. Severson: In 6 years, they have \$250,000 in coverage, so this would take effect after that point. A graduated scale could be incorporated. I don't think the intention is to build a nest egg, I want to be sure I understand where we are going with this.

Rep. Ekstrom: These injured workers won't be paying into Social Security, or retirement accounts, this will give them a small cushion to pay funeral expenses etc. This isn't a Bonanzaville.

Rep. Kasper: How many people are covered under Workers' Comp at present? Would \$.50 per month per employee be too onerous to employers to fund this program? Self funded with cash could become the reserve.

Rep. Nottestad: Maybe it ought to be opened to employees. There's a difference in risk for different employees due to their occupations.

Seebold Vetter, representing Concerned Advocates For Rights of Employees (CARE) testified in support of HCR 3050. You're talking about an increase. I don't see why there should be an

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House Industry, Business and Labor Committee

Bill/Resolution Number HCR 3050

Hearing Date 2/17/03

increase. If I die, and my check that I get right now goes to my widow, where is the increase? I'm already getting that benefit now, where is the increase? I was injured 14 years ago, My Social Security went down the drain when I got hurt. We can't afford insurance, even supplementary insurance. Workers Comp is not welfare, it is not a retirement system. We have to fight for any insurance, Workers' Comp Insurance isn't any different

Rep. Froseth: This would extend coverage to be paid longer, so there it has to be an increase in premium to cover anticipated extension of coverage benefit. Not much of one, but a small increase to cost of coverage for that particular claim.

Chairman Kelser: This bill would set up a program where they may pay a lump sum, in addition to what you are getting now. What would be an appropriate payout to your spouse and family at your death? Remove the zero to 6 years from \$197-250?

Vetter: I say eliminate the six year deal, if I die, turn my check over to my spouse, so there wouldn't be an increase. If you pay a death benefit, there would be an increase. But there's no fund right now. I'd be satisfied if my wife got \$800-\$100 a month, she wouldn't care about a lump sum.

Dave Kemnitz, AFL-CIO, testified in support of HCR 3050. I applaud the sponsors for having the foresight to develop a study on this. I urge its passage and request that you lobby the legislative council to pursue this as an interim study.

Rep. Froseth: What about employees to making contributions to a death benefits insurance plan?

Kemnitz: Previous legislative sessions felt that would cede authority to employees which might be incorrect. Employees feel that their labor is their contribution to the welfare of the state's economy and profit of the employer. The employer has the burden of paying the premiums but he

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House Industry, Business and Labor Committee

Bill/Resolution Number HCR 3050

Hearing Date 2/17/03

can offset that burden in tax reduction. The employee doesn't. On the other side, they receive no benefit unless they are injured. This would be difficult to administer.

Rep. Kasper: Would an additional \$.25-.50 per month into a death benefit fund be too much for employers or is that something that they would favor?

Kemnitz: That would be a comfort provision. An annuity situation could make a fund grow quickly.

Rep. Nottestad: How many persons are permanently disabled by Workers Comp standards at this time?

Kemnitz: I don't have those figures, remember that not all disabled employees are on the Bureau's list.

Rep. Kelsner: This resolution suggests that we talk about permanent disability, what about 75% disability? How do we approach partial disability to provide retirement?

Kemnitz: Permanent partial impairment is a lifetime situation. WCI determines the percentage and pro rates the benefits. They're already in the system. The interim study should address these questions regarding those injured employees who are not 100% disabled. Those employees who are on *temporary total disability* for years are really in limbo.

Vetter: WCB doesn't put many people on permanent total disability unless they are catastrophically injured. People can be on temporary total disability for years. They should be included in this pool too.

Rep. Nottestad: Does WCB calculate age into their computations?

Vetter: No. It used to be that an injured employee's doctor made recommendations to WCB that were respected and taken into consideration but they do it differently now.

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House Industry, Business and Labor Committee

Bill/Resolution Number HCR 3050

Hearing Date 2/17/03

Carol Two Eagles appeared in support of HCR 3050. She asked that partially disabled workers be included in this resolution's study.

Dave Theil, Vice-president of Claims for Workers' Compensation Bureau, testified that the Bureau has no objections to this proposed study and that WCB is committed to addressing these issues, whether or not this study takes place.

Rep. Nottestad: How many people are permanently disabled? How does the Bureau determine when an injured worker is eligible for total rather than temporary disability? What criteria are used?

Theil: Permanent total disability is approximately 1000 workers. There are others who are on short term or partial disability. A committee examines these claims at least at the ten and seven year points, because at that point they become eligible for supplementary benefits.. We look at the severity of the injury, the significance of the injury, the attempts at Vocational Rehabilitation to make a determination. We consider what the treating physician foresees as his patient's probability or likelihood of returning to work.

Rep. Nottestad: As people approach retirement age of 62-65, do you consider that in your changes.?

Theil: Age is not a criteria under Vocational Rehabilitation statutes, as it could be considered discriminatory. We want to let people who want to return to work do so.

Rep. Kasper: How many workers are currently classified as permanently and partially disabled?

Theil: There's a five year cap on partial disability. I'll have to get actual statistics for you.

Rep. Kelser: This is taking the department in a new direction. Currently, death benefits that are offered must be demonstrably and directly related to the injury and by definition, although

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House Industry, Business and Labor Committee

Bill/Resolution Number HCR 3050

Hearing Date 2/17/03

arbitrary, it's been decided that the death must be within 6 years of the injury. What we are talking about here is life insurance, unrelated, potentially, to the injury. Is there a rationale not to do this?

Theil: Let's use Washington's example. If somebody has lost two limbs, both eyes, has a head injury, is paraplegic or quadriplegic, for that group, there's no way for them to obtain insurance coverage. An injured worker can elect to take a reduced benefit and in exchange be provided with a life insurance policy. Washington also eliminated the statute of limitation for catastrophic cases. These people don't have much disposable income, we can't reduce their benefits, it has to be reasonable and feasible. John Halvorsen is going to capture the data we need to figure all this out. Sadly, it's the youngest workers who fall into the catastrophically injured group.

Rep. Ekstrom: Is there data that can explain life expectancies for injured workers, some actuarials that have been tracked long enough?

Theil: For severely injured, it is less. Yes, we have resources where industry experts will tell you how to factor this in. This must be done from a reserve standpoint.

Rep. Kasper: What do you think ND employers' reaction would be to a \$.50 per month per employee contribution to a pool to generate future death benefits?

Theil: I think employers will want to know the total cost and big picture. I think something can be crafted that everybody will agree is appropriate and worth funding.

Rep. Ekstrom: I envision this as being a shared situation, the worker participates in a voluntary way and the employer would participate in a small way. With a blend of that and a minor increase could create a fund and make this happen.

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Theil: This is a different scenario that normal Workers' Compensation, we are creating a life insurance policy that is out of the current scope of the Bureau.. We have a presumption clause for law enforcement. We have to identify the group, coming up with a way to make this work that is financially viable for that claim and the fund. We don't want to eliminate some other options. As there was no one present who wished to testify in opposition to HCR 3050, the hearing was closed.

Rep. Kasper moved a Do Pass.

Rep. Froseth seconded the motion.

Results of the roll call vote were: 10-0-4.

Rep. Ekstrom will carry HCR 3050.

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Yolanda Richardson
Operator's Signature

10/16/03
Date

17
Date: 2/1/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3050

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Kasper

Seconded By

Froese

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	✓	
Vice-Chair Severson	✓		Ekstrom		
Dosch	✓		Thorpe		
Froese	✓		Zaiser		
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby					
Tieman	✓				

Total (Yes) 10 No 0

Absent 4

Floor Assignment Ekstrom

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

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Salvatore Rickford
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
February 17, 2003 11:05 a.m.

Module No: HR-30-2892
Carrier: Ekstrom
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HCR 3050: Industry, Business and Labor Committee (Rep. Kelser, Chairman)
recommends **DO PASS** (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING).
HCR 3050 was placed on the Tenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-30-2892

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10/16/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HCR 3050

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Val Costa Rickford
Operator's Signature

10/6/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3050

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-19-03

Tape Number	Side A	Side B	Meter #
1		xxx	422-1020
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the hearing on HCR 3050. All Senators were present. HCR 3050 is a concurrent resolution directing the Legislative Council to study the equity of the current system for awarding workers' compensation death benefits and the feasibility and desirability of creating a death investment system.

Testimony in support of HCR 3050

Representative Ekstrom introduced the bill. See attached written testimony. This study can begin to implement changes in Worker's Comp law relating to death benefits for injured workers who die after the six year statutory limit now in law.

Senator Mutch: Who is charged with the benefits?

Rep. Ekstrom: I would like to take a portion of the award and apply it to the death benefits.

Brent Edison, ND Worker's Compensation, was neutral on the bill.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number 3050

Hearing Date 03-19-03

There was no opposition. The hearing was closed.

Senator Espegard moved a DO PASS. Senator Heitkamp seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Heitkamp

Salvatore Riccardi
Operator's Signature

10/16/03
Date

Date: 3-19-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 3050 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Do Pass Espeland Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espeland	X				

Total (Yes) Click here to type Yes Vote 7 No Click here to type No Vote 0

Absent 0

Floor Assignment Click here to type Floor Assignment Heitkamp

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

REPORT OF STANDING COMMITTEE (410)
March 19, 2003 4:26 p.m.

Module No: SR-49-5271
Carrier: Heltkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HCR 3050: Industry, Business and Labor Committee (Sen. Mutch, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HCR 3050 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-49-5271

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Richard Costa
Operator's Signature

10/6/03
Date

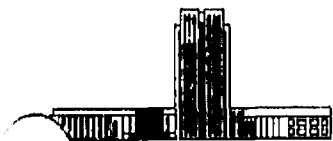
2003 TESTIMONY

HCR 3050

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Salvatore Riccardi
Operator's Signature

10/16/03
Date



Representative Mary Ekstrom
District 11
1450 River Road South
Fargo, ND 58103-4325

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business
and Labor
Political Subdivisions

House Industry Business and Labor Committee
HCR 3050 / Study of Workers' Compensation Death Benefit
February 17, 2003

Mr. Chairman and members of the House IBL Committee, my name is Mary Ekstrom and I represent District 11 in south central Fargo.

House Concurrent Resolution 3050 was drafted in response to the situation of Tim Effertz of Minot. This study will not and cannot address Mr. Effertz situation directly. However, it can begin to implement changes in Workers' Comp law relating to death benefits for injured workers who die after the six year statutory limit now in law.

The proposed study would look at the potential of creating a death benefit policy for injured workers. One way this could be financed would be to assign some portion of the Permanent Impairment Award toward a death benefit policy, this presently being done in Washington State. I believe the rationale for pursuing this idea is clearly defined in the Concurrent Resolution.

I would respectfully ask for a DO PASS recommendation for HCR 3050. I would be happy to answer any questions you may have.

Mary Ekstrom
Operator's Signature

10/16/03
Date

Before the House Industry, Business, and Labor Committee

33091.0100

February 17, 2003

Mr. Chairman

Members of the Committee

My name is Timothy Effertz

I live at 11600 20 Ave SE, Minot 58701

I can be reached by telephone at 701 8383261 or 701 7208014 (cell)

I come as both an employer and a disabled employee to speak in favor of 3050 33091.0100. I have previously presented testimony on HB1455 regarding the need for removal of the 6 year limit on receipt of death benefits under workers compensation. Remember the tale of you falling at work then living slightly less, then slightly more, than 6 years. I would appear today, but I have previous commitments. I hope that the Legislature will take this opportunity to study the need for the extended coverage.

I would welcome the challenge to help in the discussion of the needs and possible solutions. I have already discussed some of the possibilities with the Bureau. It would be useful for the Bureau to be directed by the Legislature to communicate directly to all injured workers and invite their input into the discussions. Regular communications with we employers already exists.

I predict resounding support by both employers and employees for coverage of the spouses with death benefits. I predict that severely restricted incomes will prevent the disabled from supporting any program that will decrease their weekly paycheck. The disabled are already struggling helplessly to provide the necessities of life while living below the poverty level. They are physically powerless to help themselves do normal life's tasks that you do easily without thought, causing extraordinary personal expense for assistance simply because they are disabled. Many of the disabled have decided to avoid car insurance, household insurance, and health insurance; and certainly life insurance will fall even below those in importance. Ultimately, I believe that a very small increase in employer premiums will be required to provide death benefits. I believe almost everyone will agree that a death benefit is just and equitable. Any controversy will be over the source of the funds.

I urge you to recommend a Do-pass on HCR3050

Thank you Tim



Representative Mary Ekstrom
District 11
1450 River Road South
Fargo, ND 58103-4325

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business
and Labor
Political Subdivisions

Senate Industry Business and Labor Committee
HCR 3050 / Study of Workers' Compensation Death Benefit
March 19, 2002 / Roosevelt Park Room

Mr. Chairman and members of the Senate IBL Committee, my name is Mary Ekstrom and I represent District 11 in south central Fargo.

House Concurrent Resolution 3050 was drafted in response to the situation of Tim Effertz of Minot. This study will not and cannot address Mr. Effertz situation directly. However, it can begin to implement changes in Workers' Comp law relating to death benefits for injured workers who die after the six year statutory limit now in law.

The proposed study would look at the potential of creating a death benefit policy for injured workers. One way this could be financed would be to assign some portion of the Partial Permanent Impairment Award (or PPI) toward a death benefit policy, this presently being done in Washington State. I believe the rationale for pursuing this idea is clearly defined in the Concurrent Resolution. (Note: Death benefits are currently paid if the Worker dies within six years of his or her injury and the death can be attributed to the injury.)

Workers who are severely injured are significantly impacted by reduced earning capacity, lower Social Security benefits, and are less likely to be able to qualify or afford life insurance. A study could begin to address these issues.

I have spoken with the representatives of Workers Compensation (Workforce Safety and Insurance) and they have indicated that they are willing to take on this study.

I would respectfully ask for a DO PASS recommendation for HCR 3050. I would be happy to answer any questions you may have.

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