

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1319

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1319

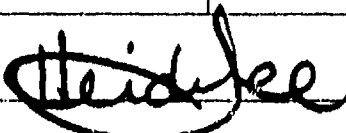
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1319

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 31, 2001

Tape Number	Side A	Side B	Meter #
1	X		0-8.7
1		X	41-45.5
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. Kim Koppelman: **Written Testimony** sponsoring bill.

Paul Wohnautka: *Elde Balley*
Written Testimony in support of bill.

C. Berg: What is the effect of this bill?

Wohnautka: It would allow corporations to be excluded.

V.C. Keiser: Why is this a problem for LLC's?

Wohnautka: For all other purposes LLC is a partnership.

V.C. Keiser: I recommend a hold until HB 1251 goes through.

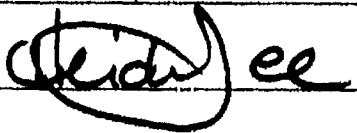
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1319(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb 13, 2001

Tape Number	Side A	Side B	Meter #
2	X		2.34-5.13
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.

Rep Froseth: I move to adopt the amendments.

Rep Keiser: I second.

Rep Froseth: I move a do pass as amended.

Rep Johnson: I second.

14 yea, 0 nay, 1 absent

Carrier Rep Froseth

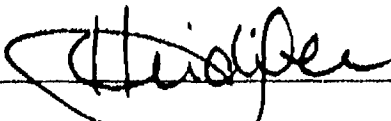
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1319(C)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 19, 2001

Tape Number	Slide A	Slide B	Meter #
1		X	14.4-17.0
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. Pletsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: Amendments provided to restore bill to original intent.

Rep Keiser: I move to reconsider the amendments.

Rep Kasper: I second.

Rep Froseth: I move to accept the amendments.

Rep Johnson: I second.

Rep Keiser: I move a do pass as amended.

Rep Lemieux: I second.

11 yea, 0 nay, 4 absent

Carrier Rep Froseth

FISCAL NOTE
Requested by Legislative Council
03/26/2001

Bill/Resolution No.:

Amendment to: Reengrossed
HB 1319

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will allow new corporations and Limited Liability Companies (LLC) to exclude corporate officers or LLC managers, respectively, with 25 percent or more ownership interest sooner than under current statute. Rather than wait until the next January, the exclusion can occur within sixty days of the formation of the corporation or LLC. The only impact on the fund will be the amount of contributions that could be collected from the wages of these corporate officer or LLC managers during the period from formation through December of that year.

Although data does not exist to calculate a specific amount, following is a scenario using the assumptions indicated below:

Approximately 500-600 new corporations and/or limited liability companies, that are not successors to accounts, become liable for Unemployment Insurance coverage each year. Assuming:

- 1) Twelve percent of these are in the construction industry (2001 maximum rate 10.09%) and others are in non-construction (2001 new employer rate 2.08%).
- 2) Each corporation or LLC has one officer or manager that draws a wage.
- 3) Each officer and/or manager earns wages up to half of the taxable base for the year, which is \$8,500 (taxable wages for 2001 is \$17,000).

Then, the maximum reduction in contributions to the Unemployment Insurance Trust Fund per biennium would be \$129,000 to \$158,000.

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.*

Name:	Wayne Kindem	Agency:	Job Service North Dakota
Phone Number:	328-3033	Date Prepared:	03/27/2001

FISCAL NOTE
 Requested by Legislative Council
 02/15/2001

Bill/Resolution No.:

Amendment to: HB 1319

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will allow new corporations and Limited Liability Companies (LLC) to exclude corporate officers or LLC managers, respectively, with 25 percent or more ownership interest sooner than under current statute. Rather than wait until the next January, the exclusion can occur within sixty days of the formation of the corporation or LLC. The only impact on the fund will be the amount of contributions that could be collected from the wages of these corporate officer or LLC managers during the period from formation through December of that year.

Although data does not exist to calculate a specific amount, following is a scenario using the assumptions indicated below:

Approximately 500-600 new corporations and/or limited liability companies, that are not successors to accounts, become liable for Unemployment Insurance coverage each year. Assuming:

- 1) Twelve percent of these are in the construction industry (2001 maximum rate 10.09%) and others are in non-construction (2001 new employer rate 2.08%).
- 2) Each corporation or LLC has one officer or manager that draws a wage.
- 3) Each officer and/or manager earns wages up to half of the taxable base for the year, which is \$8,500 (taxable wages for 2001 is \$17,000).

Then, the maximum reduction in contributions to the Unemployment Insurance Trust Fund per biennium would be \$129,000 to \$158,000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1 A, 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.*

Name:	Wayne Kindem	Agency:	Job Service North Dakota
Phone Number:	328-3033	Date Prepared:	02/16/2001

FISCAL NOTE

Requested by Legislative Council

01/18/2001

Bill/Resolution No.: HB 1319

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will allow new corporations and Limited Liability Companies (LLC) to exclude corporate officers or LLC managers, respectively, with 25 percent or more ownership interest sooner than under current statute. Rather than wait until the next January, the exclusion can occur within sixty days of the formation of the corporation or LLC. The only impact on the fund will be the amount of contributions that could be collected from the wages of these corporate officer or LLC managers during the period from formation through December of that year.

Although data does not exist to calculate a specific amount, following is a scenario using the assumptions indicated below:

Approximately 500-600 new corporations and/or limited liability companies, that are not successors to accounts, become liable for Unemployment Insurance coverage each year. Assuming:

- 1) Twelve percent of these are in the construction industry (2001 maximum rate 10.09%) and others are in non-construction (2001 new employer rate 2.08%).
- 2) Each corporation or LLC has one officer or manager that draws a wage.
- 3) Each officer and/or manager earns wages up to half of the taxable base for the year, which is \$8,500 (taxable wage for 2001 is \$17,000).

Then, the maximum reduction in contributions to the Unemployment Insurance Trust Fund per biennium would be \$129,000 to \$158,000.

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.*

Name:	Wayne Kindem	Agency:	Job Service North Dakota
Phone Number:	328-3033	Date Prepared:	01/23/2001

Date: 2-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1319

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Froese Seconded By Johnson

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

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Froese

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

REPORT OF STANDING COMMITTEE

HB 1319: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1319 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "paragraphs" with "paragraph" and remove "and 2"

Page 1, line 3, remove "and limited liability companies"

Page 1, line 5, replace "Paragraphs" with "Paragraph" and remove "and 2"

Page 1, line 6, replace "are" with "is"

Page 1, remove lines 18 through 24

Page 2, remove lines 1 through 5

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1319

Page 1, line 1, replace "paragraph" with "paragraphs" and after "1" insert "and 2"

Page 1, line 3, after "corporations" insert "and limited liability companies"

Page 1, line 5, replace "Paragraph" with "Paragraphs" and after "1" insert "and 2"

Page 1, line 6, replace "is" with "are"

Page 1, after line 17, Insert:

- "(2) Any manager of a limited liability company. If a limited liability company manager is employed by the limited liability company in which one-fourth or more of the ownership interest, however designated, is owned or controlled by the manager or by the manager's parent, child, spouse, or by any combination of them, the limited liability company with the concurrence of the manager may exclude that manager's service from employment as of the first day of January of any calendar year if, during January of that year, the limited liability company files a written application to exclude the manager's service from employment or as of formation of the limited liability company if, within sixty days of the formation, the limited liability company files a written application to exclude the manager's service from employment."

Renumber accordingly

Date: 2-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1319

House Industry, Business and Labor Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Keiser Seconded By Lemieux

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Jim Kasper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice-Chairman George Keiser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Matthew M. Klein	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mary Ekstorm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Myron Koppang	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Rod Froelich	<input type="checkbox"/>	<input type="checkbox"/>	Rep. Doug Lemieux	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Glen Froseth	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Bill Pietsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Roxanne Jensen	<input type="checkbox"/>	<input type="checkbox"/>	Rep. Dan Ruby	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Nancy Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rep. Dale C. Severson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rep. Elwood Thorpe	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Total (Yes) 11 No 0

Absent 4

Floor Assignment Rep Froseth

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

REPORT OF STANDING COMMITTEE

HB 1319: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1319 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "paragraph" with "paragraphs" and after "1" insert "and 2"

Page 1, line 3, after "corporations" insert "and limited liability companies"

Page 1, line 5, replace "Paragraph" with "Paragraphs" and after "1" insert "and 2"

Page 1, line 6, replace "is" with "are"

Page 1, after line 17, insert:

"(2) Any manager of a limited liability company. If a limited liability company manager is employed by the limited liability company in which one-fourth or more of the ownership interest, however designated, is owned or controlled by the manager or by the manager's parent, child, spouse, or by any combination of them, the limited liability company with the concurrence of the manager may exclude that manager's service from employment as of the first day of January of any calendar year if, during January of that year, the limited liability company files a written application to exclude the manager's service from employment or as of formation of the limited liability company if, within sixty days of the formation, the limited liability company files a written application to exclude the manager's service from employment."

Renumber accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1319

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1319

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 06, 2001.

Tape Number	Side A	Side B	Meter #
1	x		17.3 to 24.4
(March 20/01) 1	x		14.7 to 24.7
Committee Clerk Signature <i>Doris E. Pérez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1319 relating to unemployment compensation coverage for corporations and limited liability companies.

Representative Kim Koppelman, District 13, cosponsor. Written testimony attached.

Senator Mutch: Didn't we have a similar bill?

Rep. Koppelman: Yes, HB 1251 relating to LLCs managers exclusion from coverage, both bills are necessary.

Senator Krebsbach: The engrossed bill does not reflect amendments attached to the original bill.

Rep. Koppelman: HB 1251 had already passed the House and the committee amended this one thinking that a section was unnecessary in light of the passage of the other one. The Legislative Council said no, it was needed, so they amended back in what was taken out, so the engrossed

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number HB 1319
Hearing Date March 06, 2001.

bill is the original bill.

Senator Krebsbach: So this is the second engrossment.

Paul Wohnoutka, CPA, Eide Bailly. In favor of this bill. Urge passage of both HB 1251 and HB 1319.

Ray Gudajtes, Job Service, ND. I ask the committee that, in light of the issues raised by the DOL regarding HB 1251, final action on this bill be delayed until we find out what their concerns are.

Senator Espgaard: You can have unemployment insurance for your own corporations and for yourself?

R Gudajtes: Employer can have coverage for self and for employees. They are included until the officers request exclusion. With this bill they can opt out at the beginning

K Koppelman: For years we have been telling LLCs that they are the same as sole proprietorships, but not for all things and this is what we are trying to correct.

No opposing testimony.

March 20, 2001. Tape 1-A- 14.7 to 24.7

Committee reconvened. All members present.

Ray Gudajtes, Job Service ND, addressed conformity issue with FUTA and submitted proposed amendment to address this issue and to provide consistency. Written testimony and proposed amendment attached.

Discussion held.

Senator Klein: Motion: to adopt amendment as proposed. **Senator Mathern:** Second.

Roll call vote: 7 yes; 0 no. Motion carried.

Senator Krebsbach: Motion: do pass as amended. **Senator Tollefson:** Second.

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1319

Hearing Date March 06, 2001.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Krebsbach.**

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1319

Page 2, line 5, after the period insert "This exclusion from employment does not apply to any limited liability company which is wholly owned by or operates as an Indian tribe, state or local government, or nonprofit organization regarding services performed for those entities which are required to be covered under the North Dakota Unemployment Compensation Law by federal law."

Renumber accordingly

Date: 3/20/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1319

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken

To adopt amendment as proposed

Motion Made By

Sen Klein

Seconded
By

Sen Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 3/20/01

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1319

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or _____

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken *Repass as amended*

Motion Made By Sen Kresbach Seconded By Sen Tollefson

[illegible]

Total (Yes) 1 No 0

Absent *D*

Floor Assignment Sen Krebsbach

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

REPORT OF STANDING COMMITTEE (410)
March 21, 2001 8:32 a.m.

Module No: SR-49-6220
Carrier: Krebsbach
Insert LC: 10218.0302 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1319, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1319 was placed on the Sixth order on the calendar.

Page 2, line 5, after "employment" insert " This exclusion from employment does not apply to any limited liability company that is wholly owned by or operates as an Indian tribe, state or local government, or nonprofit organization with respect to services performed for those entities which are required by federal law to be covered under the North Dakota unemployment compensation law."

Renumber accordingly

2001 TESTIMONY

HB 1319



Consultants • Certified Public Accountants

January 31, 2001

House Industry Business Labor Committee
North Dakota Legislature
600 E Boulevard Ave
Bismarck, ND 58505

RE: House Bill 1319 Relating to Unemployment Tax

Dear Chairman and Committee Members:

I am in favor of House Bill 1319.

I want to bring to the committee's attention that House Bill 1319 lines 18 on page 1 and through line 5 on page 2 are amending a section of law that also is being amended in House Bill 1251 which was heard in the House Taxation Committee. If anyone would like my five-page testimony on House Bill 1251, please call me at 255-8433 or email me at pwohnoutka@eidebailly.com.

My request of the committee is that if House Bill 1251 passes the House that you delete everything after line 17 on page 1 of House Bill 1319.

If, for whatever reason, House Bill 1251 does not pass the House, I request that you leave House Bill 1319 just the way it is.

Sincerely,

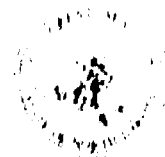
EIDE BAILLY LLP


Paul J. Wohnoutka, CPA

PJW/bp



NORTH DAKOTA HOUSE OF REPRESENTATIVES



COMMITTEES:
Appropriations

STATE CAPITOL
600 EAST BOULEVARD
SIOUX FALLS, ND 58505-0380

Representative Kim Koppelman
District 13
First Avenue Northwest
West Fargo, ND 58078-1101

Testimony on House Bill 1319 by Rep. Kim Koppelman before the House Industry, Business And Labor Committee

1-31-01

Good Morning, Chairman Berg and Members of the House Industry, Business and Labor Committee, for the record, I am Rep. Kim Koppelman and I represent District 13.

The bill before you, House Bill ¹³¹⁹ ~~1319~~, is designed to correct what I believe is an unintended quirk in North Dakota law, which effectively denies a privilege established businesses enjoy to newly formed ones.

In our state, corporations and LCL's may "opt out" of unemployment compensation for its owners, in other words owners can choose to forgo the privilege of paying unemployment premiums on themselves and, presumably, collecting unemployment benefits if they ever fire themselves or lay themselves off. Obviously, this is an option many business owners would choose to exercise.

There is only one problem with this law. The "opt out" privilege exists only in January of each calendar year. What happens, you may ask, if a business is formed in any of the other 11 months? Simply stated, the owner or owners must pay this tax during their first year of operation, before "opting out" in their second.

It is clear to me that this was probably an unintended oversight in the original law's drafting. It creates an unnecessary bureaucratic "hoop" which not only unnecessarily inconveniences businesses and costs them money, but also must present a needless paper shuffle for state government, in the case of those business owners who "opt out" during and after their second year of business.

Mr. Chairman and members of the committee, I would respectfully urge your favorable consideration of House Bill 1319 and would gladly attempt to answer any questions you may have.



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Appropriations

Representative Kim Koppelman
District 13
513 First Avenue Northwest
West Fargo, ND 58078-1101

Testimony on House Bill 1319 by Rep. Kim Koppelman before the Senate Industry, Business and Labor Committee

3-6-01

Good Morning, Chairman Mutch and Members of the Senate Industry, Business and Labor Committee, for the record, I am Rep. Kim Koppelman and I represent District 13.

The bill before you, House Bill 1319, is designed to correct what I believe is an unintended quirk in North Dakota law, which effectively denies a privilege, which established businesses enjoy, to newly formed ones.

In our state, corporations and LLC's may "opt out" of unemployment compensation for their owners. In other words owners can choose to forgo the privilege of paying unemployment premiums on themselves, presumably because of the unlikelihood of a business owner laying off or firing himself or herself. Obviously, this is an option many business owners would choose to exercise.

There is only one problem with this law. The "opt out" privilege exists only in January of each calendar year. What happens, you may ask, if a business is formed in any of the other 11 months? Simply stated, the owner or owners must pay this tax during their first year of operation, before "opting out" in their second.

It is clear to me that this was probably an unintended oversight in the original law's drafting. It creates an unnecessary bureaucratic "hoop" which not only inconveniences businesses and costs them thousands of dollars, but also must present a needless paper shuffle for state government, in the case of those business owners who are added to the rolls their first years and then "opt out" during and after their second year of business.

Mr. Chairman and members of the committee, I would respectfully urge your favorable consideration of House Bill 1319 and would gladly attempt to answer any questions you may have.

HOUSE BILL 1251 and 1319
Testimony Before the Senate Committee On
Industry, Business and Labor
Senator Duane Mutch, Chairperson
March 20, 2001

Mr. Chairman and members of the committee, I am Ray Gudajtes of Job Service North Dakota. House Bill 1251 excludes from unemployment insurance coverage all managers of Limited Liability Companies (LLC) except those that are managers of LLC's that treat themselves as corporations for purpose of federal income taxation. Of those managers that will be excluded, some may not be members (owners) of the LLC.

The bill further allows the LLC to exclude those managers that are covered if the manager or certain relatives or a combination of them have 25 percent or more ownership in the LLC.

The US Department of Labor (DOL) indicates that this raises a conformity issue with the Federal Unemployment Insurance Tax Act (FUTA). FUTA requires services to be covered under State law if they are excluded from the FUTA definition of employment solely on the basis that they are performed for government entities, for 501(c)(3) nonprofit organizations, or American Indian tribes.

If an LLC exists within or is wholly owned by a State or local government, a nonprofit organization and/or an American Indian Tribe, then HB 1251 would be inconsistent with that requirement of FUTA.

We are submitting amendments to HB 1251 to address the FUTA conformity issue and to provide consistent application of exclusions to those managers that are covered.

Page 1, line 14 – a US DOL representative has indicated this amendment is necessary to assure conformity with FUTA. HB 1251 does not address those managers that are not members (owners) of a LLC that is treated as a partnership for federal income taxation. An LLC wholly owned by a State or local government, 501(c)(3) non-profit organization, or American Indian Tribe would have a situation where a manager would not be an owner and consequently the State is required to provide unemployment insurance coverage.

Page 2, line 3 – this amendment is specifically addressed in correspondence from the US DOL

Page 1, lines 19 and 20 – now with the inclusion as employee those managers who are not owners, this amendment would provide the same opportunity for these managers to request exclusion from coverage as is provided in the original bill.

These amendments will address conformity with FUTA and still support the original intent of the bill.

House Bill 1319 provides an additional time period for a corporation or LLC to exclude a corporate officer or limited liability company manager, respectively, that has 25% or more ownership.

The US DOL addressed the same issues with the exclusions in HB 1319 as they addressed in HB 1251 regarding coverage for government entities, for 501(c)(3) nonprofit organizations, or American Indian tribes. According to the US DOL the proposed amendment will remove the conformity issue.

Mr. Chairman, this concludes my testimony. Thank you.