MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 3M

ROLL NUMBER

1469

DESCRIPTION

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1469

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1469

House Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date Jan 29, 2001

Tape Number	Side A	Side B	Meter #
2	X		32.7
		X	-16.6

Committee Clerk Signature

Minutes: Chairman R. Berg, Vice-Chair C. 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 Pam Gulleson: **Written testimony sponsoring bill.**

Rep Kasper: What happens is an exempt farmer gets hurt?

Rep Gulleson: Then the farmer is liable.

Rep Koppang: Is this only instate ag operations?

Rep Gulleson: No, but not the very large operations.

Rep Mike Brandenburg: (38.4) I am in favor of the bill and the guidelines.

Vice-Chairman Keiser: What is the current law?

Rep Brandenburg: Custom harvesters need workmen's comp.

Mark Scallon: (44.8) *Attorney at Law* **Written testimony in support of bill.** This solves the problem of what is the standard and the lack of notice.

Julie Lier: (55.9) *ND Workers Comp* **Written testimony opposed as written, support amend.**

Vice-Chairman Keiser: How many other groups are exempt?

Lier: Hazardous employment is defined in bill.

Rep Klein: What does "exclusive of hauling" mean?

Lier: It just excludes special contracts.

Vice-Chairman Keiser: Are any other companies writing workers comp?

Lier: Not that I'm aware of but maybe liability.

Rep Lemieux: What is the base rate?

Lier: $4 to 100 reported.

Rep Severson: Have the sponsors seen the amendments?

Lier: yes.

Chairman Berg: What more information do we need?

Lier: A study would look for an easy way to set the guidelines.

Chairman Berg: Is the number of people exempt the problem?

Lier: This is taking away coverage from those who need it.

Rep Lemieux: Why do you think of the amendments?

Mark Scallon: I just feel that we need a standard.

Rep Lemieux: What about saying "you have to have workman's comp."?

Scallon: Yes it sounds good in theory, but that's not realistic.

Vice-Chairman Keiser: I would like information on how a part-time farmer fits in.

Chairman Berg: We'll close the hearing on HB 1469.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1469(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb 14, 2001

Tape Number	Side A	Side B	Meter #
1		X	1.76-5.1

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 Severson: Proposed and explained amendments.

Rep Keiser: I move to adopt the amendments.

Rep Pietsch: I second.

Rep Severson: I move a do pass as amended.

Rep Lemieux: I second.

13 yea, 0 nay, 2 absent **Carrier Rep Severson**

FISCAL NOTE

Requested by Legislative Council
2/20/2001

Bill/Resolution No.:

Amendment to: HB 1469

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: Custom Agricultural Exemptions

BILL NO: Engrossed HB 1469

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 engrossed bill will exempt from workers' compensation coverage certain custom agricultural operations unless the employer's custom agricultural operations are based outside this state or require more than thirty actual working days of operation during the calendar year.

FISCAL IMPACT: We do not anticipate that this change will materially change rate and reserve levels. To the extent that some employer's opt out of the workers' compensation system, collected premiums will decline; but the Bureau should realize a reduction in losses that will offset the drop in income.

DATE: February 20, 2001

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:	Paul R. Kramer	**Agency:**	ND Workers Compensation
Phone Number:	328-3856	**Date Prepared:**	02/20/2001

FISCAL NOTE

Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1469

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: Custom Agricultural Exemptions

BILL NO: HB 1469

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.

This bill will exempt from workers' compensation coverage certain custom agricultural operations that comprise less than 50% of the employer's gross income or gross payroll for custom agricultural operations exceeds $20,000.

FISCAL IMPACT: We do not anticipate that this change will materially change rate and reserve levels. To the extent that some employer's opt out of the workers' compensation system, collected premiums will decline; but the Bureau should realize a reduction in losses that will offset the drop in income.

DATE: January 26, 2001

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:	Paul R. Kramer	**Agency:**	ND Workers Compensation
Phone Number:	328-3856	**Date Prepared:**	01/26/2001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1469

Page 1, remove line 9

Page 1, line 10, remove "operation or unless", remove "gross payroll for", and replace "exceeds" with "are based out of this state and do not require more than thirty actual working days of operation during the calendar year"

Page 1, line 11 remove "twenty thousand dollars"

Renumber accordingly

10378.0301
Title.

Prepared by the Legislative Council staff for
Representative Gulleson
January 31, 2001

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1469

Page 1, remove line 9

Page 1, line 10, remove "operation or unless"

Page 1, line 11, replace "twenty" with "ten"

Renumber accordingly

Date: 2-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1464

House Industry, Business and Labor Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended

Motion Made By Severson Seconded By Lemieux

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 Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Severson

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

REPORT OF STANDING COMMITTEE

HB 1469: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1469 was placed on the Sixth order on the calendar.

Page 1, remove line 9

Page 1, line 10, remove "operation or unless", remove "gross payroll for", and replace "exceeds" with "are based outside this state or require more than thirty actual working days of operation during the calendar year"

Page 1, line 11, remove "twenty thousand dollars"

Renumber accordingly

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1469

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1469

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 05, 2001.

Tape Number	Side A	Side B	Meter #
2	x		18.7 to to 46.0
Committee Clerk Signature Doris E Peiz			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1469 to provide that certain custom agricultural operation employment is exempt from workers' compensation coverage.

Bob Indvik, Vice-Chairman ND WC Board of Directors. Provided brief description of the bill and the Board's recommendation. Written testimony attached.

Julie Leer, General Counsel, NDWC. The Board of Directors opposed this bill as introduced. Upon reviewing the amendments they chose not to take a position, but asked that NDWC present the committee with some background information. Written testimony attached.

Pam Gulleson, District 26, co sponsor. This bill was submitted on behalf of a couple of people in my district that have farm operations, as a result of problems because of no clear definition of when an operator who provides custom work needs to come under workers' compensation coverage. Employers' claim was denied, requested to go off workers comp coverage and dispute

ensued. What we need to do is to provide for definition of when custom operator is exempt and when they need to provide coverage.

David Kemnitz, ND AFL-CIO, support the bill and propose an amendment in line 8, after "special contractor", strike to lines nine and ten and replace with " is not exempt from workers compensation". This will give a definition.

Senator Mutch: What is the rate for farm labor?

J Leer: Four dollars per hundred. The definition is already in place in the WC manual, definition of parameters of the operation is what the bill addresses. It is a matter of degrees how huge a part of the operation custom operations is. If you agree to Mr. Kemnitz amendments you have no bill because that is how the law is now. Agricultural exemption for farmers is an optional agricultural coverage. Custom operations now require coverage. What bill will do is extend the agricultural exemption so they still have the option of getting the coverage.

No opposing testimony. Hearing closed. Discussion held.

Senator Espegard: Motion: do pass. **Senator Tollefson**: Second.

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

Date: March 05/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1469

Senate Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Espegard Seconded By Sen Tollefson

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Tollefson

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

REPORT OF STANDING COMMITTEE

HB 1469, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1469 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1469

Rep Ron Gullerson

Testimony for HB 1469
Monday, Jan.?9

The purpose of this bill is to more clearly define the law regarding the requirement to provide worker compensation coverage for farm employees. Current law provides for exception or exemption from worker compensation coverage for farm workers under subsection 22 of section 65-01-02. If a farm operator engages in custom operations, the Workers Compensation Bureau may determine that the exemption is lost. Currently, there are not any standards for the Bureau on which to determine when a farmer who engages in custom work becomes subject to Workers Comp coverage.

HB 1469 clearly defines when an agriculture employer would retain the agricultural service exemption. As stated in the bill, an agricultural employer that engages in a custom agricultural operation retains the exemption unless more than fifty percent of the employer's gross income is attributable to the custom agricultural operation or unless the employers' gross payroll for custom agricultural operations exceeds twenty thousand dollars.

In light of todays farm economy, it is not unusual for many farmers to do custom work before or after they have completed their own work. Obviously, a custom operator who derives the majority of his income from custom operations would not be eligible for the agriculture exemption. However, there are not any standards in which the farmers can look to in order to determine when they are bound by the workers compensation laws. The gross payroll guidelines stated in this bill of $20,000 will ensure a relatively small operator, producing only a small amount of custom work. An Attorney Generals Opinion on this subject has stated that the Workers Compenstion Bureau must make their determination on a case by case basis. The language in this legislation provides clearly defined guidelines so that all parties - farmers ,their employees and the bureau - will have a clear understanding of the law.

HB 1469

114 Employers reported
Payroll Reported = 1,690,352.00
Avg = $14,000+

Payroll =		
$1,000 -	$5,000	— 50
5	- 10	22
10	15	15
15	20	6
20	25	5
25	30	6
30	35	2
35	40	3

in increments of $5000 above $40,000 - 1 ea (up to 114 emp'rs)

Rep Ramstad Mark Scallon 1

"Occasionally and casually are obviously less then a majority of the time. But a more specific determination is difficult. Therefore, cases in which a farmer spends less then a majority of his or his employees time in custom operations for others would necessarily have to be determined on an individual basis."

This is the troublesome area; there is not a standard by which a farmer can gauge when he must be covered. When is the line crossed from occasional operations to those which the Bureau wants covered. What is the standard; amount of income, number of acres, amount of employee time, or number of customers? Currently there is not a definition for the Bureau and farmers to use. All we know is that it is determined on a case by case basis without standards. The farmer does not have any reference point to go by if he receives a letter from the Bureau stating he needs coverage. This system is not fair and is unjust for the farmer. The farmer may have to engage an attorney to try and make sense of this and then be further frustrated when told by their attorney that due to the lack of a reasonable standard, the attorney cannot tell them if they need to have coverage. House Bill 1469 would resolve this issue.

The second problem is the lack of notice of the need for coverage. The only notice of the current standard is a press release issued by the Bureau in late 1977. These criteria do not appear in the Century Code nor have they been published in any judicial opinion by the North Dakota Supreme Court. Attorney General Opinions from 1977 are not available on the Internet. Thus, 99% of North Dakotans are not aware of this standard. While ignorance of law is no excuse, there is an element of fairness in making such requirements known. I became aware of the standards only when a client of mine was informed by the Bureau that he needed coverage. This Bill will let farmers

In southeast North Dakota, and I believe throughout the State, many farmers engage in custom operations for their neighbors once they have completed the planting, caring for and harvesting of their own crops. It is my belief that the vast majority of these farmers do not know that they may be subject to workers compensation requirements for the employees by doing so. House Bill 1469 would resolve two problems which currently exist between farmers and the Bureau.

Prior to 1977, the Bureau did not require custom farm operators to have workers compensation coverage for their employees. In 1977 the Bureau requested an Attorney General's Opinion to determine if this position was still correct. This Opinion determined, correctly in my view, that farm operations such as custom combining and custom hay moving and stacking, carried on by individuals or entities which did not own or operate a farm were subject to Workers Compensation coverage. This Opinion also addressed the issue of a farm operator who also engages in custom operations and a dual test was determined.

The first test states that if a majority of the operations were done for others for profit, this would constitute a "separate and distinct" business, a kind of regular "commercial business" not within the agricultural exemption. This test is fairly clear and I do not have a problem with it. It is the second part which is troublesome.

The Attorney General Opinion also stated "If a farmer performs his own farming operations and engages in custom operations for others on occasion, such an operation would fall within the exemption.". This also makes sense. The problem lies with those in between these areas. The Attorney General added:

know when they need to obtain Workers Compensation coverage for their employees when they meet the criteria of mandatory coverage.

I would urge passage of House Bill 1469 so that farmers will become aware of the possible need for coverage for their employees and for the fair standards it sets.

Respectfully submitted,

Mark Scallon
SCALLON LAW FIRM, P.C.
P.O. Box 39 - 58 1st Avenue South
Ellendale, ND 58436
(701) 349-3665

Fifty-seventh
Legislative Assembly
of North Dakota

House Bill No. 1469
Before the House Industry, Business, and Labor Committee
North Dakota Workers Compensation Testimony
January 29, 2001

Mr. Chairman, Members of the Committee:

My name is Julie Leer. I am General Counsel for North Dakota Workers Compensation (NDWC) and I am here to testify in opposition to 2001 House Bill No. 1469. The Workers Compensation Board of Directors unanimously opposes this bill at this time but suggests a study of this issue during the upcoming interim.

House Bill No. 1469 proposes an expansion of the agricultural exemption from workers' compensation coverage. There are 114 employers paying premium for the rate classification that includes custom agricultural services, such as custom combining. The definition in the bill is based on the definition set forth in the workers' compensation rate classification manual for these types of services. The parameters set for expanding the agricultural exemption to custom agricultural services are the main concern.

Of the 114 employers paying premium, 93 would be able to opt out of coverage under this bill because their gross payroll is twenty thousand dollars or less. Four hundred fifty-six employees are reported under that rate classification, and one employer has optional employer coverage under that rate classification. Using a threshold of $20,000, 41 employers would be eligible to opt out who reported payroll for three or more employees, with the highest number of employees reported being ten. Using a threshold of $10,000, there are 25 employers who would be eligible to opt out who reported payroll for three or more employees, with the highest number of employees reported being nine.

A study would allow NDWC to determine, not only whether such an expansion of this exemption is desired, but also whether there is a better means of defining this exemption. Would it be better to base this type of exemption on gross receipts, gross payroll reported, geographic location of the custom operations, or something else entirely? I have handed out a proposed amendment that would replace this bill with a bill requiring NDWC to conduct a study during the 2001-2002 interim which would explore expanding the agricultural exemption to custom agricultural operations. Because this issue has come up recently, NDWC had already planned to review this exemption in light of custom agricultural operations. Accordingly, NDWC asks that you facilitate this study and recommend that this bill "Do Not Pass" or, alternately, pass with the suggested amendment.

Thank you. I'll attempt to answer your questions at this time.

PROPOSED AMENDMENTS TO 2001 HOUSE BILL NO. 1469

Page 1, line 1, after "A Bill" replace the remainder of the bill with "for an Act to require the workers compensation bureau to conduct a study to expand the agricultural exemption for workers' compensation to custom agricultural operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. WORKERS COMPENSATION STUDY ON EXEMPTING CERTAIN CUSTOM AGRICULTURAL OPERATIONS FROM HAZARDOUS EMPLOYMENT. During the 2001-2002 interim, the workers compensation bureau shall study the feasibility of expanding the agricultural exemption to include certain custom agricultural operations. The bureau shall assess whether the exemption should be expanded and if it should, shall define the terms of the exemption, specifically which employers providing custom agricultural services should be allowed the exemption. Prior to the 2003 legislative session, the bureau shall present the results of the study and any recommended legislation to an interim committee identified by the legislative council."

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 56th 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 5th 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.

Fifty-seventh
Legislative Assembly
of North Dakota

Engrossed House Bill No. 1469
Before the Senate Industry, Business, and Labor Committee
North Dakota Workers Compensation Testimony
March 5, 2001

Mr. Chairman, Members of the Committee:

My name is Julie Leer. I am General Counsel for North Dakota Workers Compensation (NDWC) and I am here to testify on 2001 Engrossed House Bill No. 1469. The Workers Compensation Board of Directors opposed this bill as it was introduced. Upon reviewing the amendments, the Board has chosen not to take a position on this bill, but has asked that NDWC present the committee with some background and some of the issues the Board raised in its discussion of the bill.

Engrossed House Bill No. 1469 proposes an expansion of the agricultural exemption from workers' compensation coverage. There are 114 employers paying premium for the rate classification that includes custom agricultural services, such as custom combining. The definition of custom agricultural operations in the bill is based on the definition set forth in the workers' compensation rate classification manual for these types of services.

The Board originally suggested a study during the upcoming interim to allow NDWC to determine, not only whether such an expansion of this exemption is desired, but also whether there is a better means of defining this exemption, i.e., gross receipts, gross payroll reported, geographic location of the custom operations, or something else entirely. Another concern the Board expressed is how employees who have been covered under the custom agricultural operations rate class would be informed that their employers may have chosen to drop this coverage. Having reviewed the number of

employers who have chosen to provide optional agricultural coverage for their employees, the Board is optimistic that many of the employers who are currently required to have coverage for custom agricultural operations will continue to provide that coverage on an optional basis.

One of the current difficulties in administering this coverage is a 1977 attorney general's opinion that indicates that employers conducting custom agricultural operations must acquire workers' compensation coverage for their employees, but left open the possibility that some of those operations might be exempt under the agricultural exemption. Because this opinion was recently reviewed relative to a coverage issue by an employer conducting custom farm operations, NDWC had planned to review the agricultural exemption and the requirement for coverage for custom agricultural operations. NDWC will still review whether this bill seems to achieve the desired result and, if necessary, will ask the Legislative Assembly to revisit this issue in 2003.

Thank you. I'll attempt to answer your questions at this time.

FISCAL NOTE

Requested by Legislative Council
01/23/2001

Bill/Resolution No.: HB 1469
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: Custom Agricultural Exemptions

BILL NO: HB 1469

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.

This bill will exempt from workers' compensation coverage certain custom agricultural operations that comprise less than 50% of the employer's gross income or gross payroll for custom agricultural operations exceeds $20,000.

FISCAL IMPACT: We do not anticipate that this change will materially change rate and reserve levels. To the extent that some employer's opt out of the workers' compensation

system, collected premiums will decline; but the Bureau should realize a reduction in losses that will offset the drop in income.

DATE: January 26, 2001

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:	Paul R. Kramer	**Agency:**	ND Workers Compensation
Phone Number:	328-3856	**Date Prepared:**	01/26/2001

NORTH DAKOTA WORKERS COMPENSATION
2001 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Custom Agricultural Exemptions

BILL NO: HB 1469

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.

This bill will exempt from workers' compensation coverage certain custom agricultural operations that comprise less than 50% of the employer's gross income or gross payroll for custom agricultural operations exceeds $20,000.

FISCAL IMPACT: We do not anticipate that this change will materially change rate and reserve levels. To the extent that some employer's opt out of the workers' compensation system, collected premiums will decline; but the Bureau should realize a reduction in losses that will offset the drop in income.

DATE: January 26, 2001