

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2023

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Date

2003 SENATE APPROPRIATIONS

SB 2023

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2023

Senate Appropriations Committee

☐ Conference Committee

Hearing Date January 20, 2003

Tape Number	Side A	Side B	Meter #
#2	A		1976-end
		X	0-1220
Committee Clerk Signature <i>Jan Henderson</i>			

Minutes:

Senator Holmberg, chairman, opened the hearing on SB 2023 with all committee members present.

Dave Ystebo, chairman of the North Dakota Workers Compensation Board of Directors.

Legislation passed in 1997 created a workers compensation board of directors whose members represent employers, employees and the medical community. The board is involved in all aspects of Workers Compensation functions, planning, preparation and implementation of the budget.

Brent Edison (#2086) (Exhibit #2) Executive Director and CEO of North Dakota Workers Compensation (NDWC). With the help of its constituents, the Legislative Assembly and its Board of Directors, NDWC has made great strides toward solidifying the solvency of the Fund, while at the same time enhancing service to North Dakota's workers, employers and medical providers. Charts were also included in Exhibit #2.

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Senate Appropriations Committee

Bill/Resolution Number SB 2003 <sup>2003</sup>

Hearing Date January 20, 2003

- The first color bar graph goes through the fund situation from 1993 to 2002, year ending June 30 with net assets of \$386 million. (#2215) Mr. Edison talks about the discount and unrestricted net assets. \$300 million is designed for discount and \$86 million is unrestricted net assets. He talked about investment returns at 6% and the Board of Directors policy on staying fiscally sound, and what their funding level goals. They would like to pay future liabilities without having to rely on investment income, and some reserve over and above that of about ½ year's premiums with a plus or minus 50%. So they would like to be able not take into account investment returns and have from \$25 million to \$75 million dollars. They are short of that goal by \$16 million as of June 30, 2002.
- Page 2 of the charts show the premium changes from 1993 to 2003, 8th straight year of reduction in premium rates. The bottom showed earned premium
- Page 3 showed claims reported per 100 covered workers. This past year there was under 20,000 claims filed for the first time in many years.....reason being to the safety efforts. The bottom of the page shows the wage-loss claims reported per 100 covered workers. These are the most severe claims that the Department deals with. Claims have come down since 1992, again because of the safety efforts.
- Page 4 shows the injured worker customer satisfaction survey and the employer customer satisfaction survey. Both surveys were up from the previous years.
- Page 5 shows the constituency service requests and litigation requests. These are lower also over the past few years.

In May 2002, the NDWC Board of Directors held its first strategic planning retreat to chart a course for the future of the organization. Keeping NDWC's mission of providing quality,



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Senate Appropriations Committee

Bill/Resolution Number SB 2003 <sup>2027</sup>

Hearing Date January 20, 2003

comprehensive workers compensation products and services in mind, the Board mapped out an aggressive strategic plan and targeted ten directional goals. These goals formed the foundation for much of the appropriation request for biennium 2003-05. These goals are:

- Developing a subsidiary to provide coverage for North Dakota employers with employees on temporary or incidental assignment in Minnesota
- Secure and expand facilities in the eastern part of the state to provide quality, comprehensive services
- Operate with a new organization name by mid-2003 to coincide with the move into new building.
- Provide enhanced web-based information and e-Commerce solutions to our customers.
- Initiate innovative reward and development systems that help attract and retain quality staff.
- Continue to be the sole provider of workers' compensation products and services in North Dakota
- The Board of Directors will have an integrated role in the organization's strategic public relations plan.
- To strengthen the Board's governance process by providing Board development through education, orientation, and training and work to make enhancements to the legislated Board structure.
- Develop new incremental revenue from nontraditional sources with 5 % of total revenue as a goal by the fourth quarter of 2005
- Establish a funding level policy addressing fund surplus targets and reserve discount practices.

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Senate Appropriations Committee

Bill/Resolution Number SB 2003 <sup>2003</sup>

Hearing Date January 20, 2003

Questions: (#2994) Senator Mathern: Question on the chart page 5 regarding litigation request.

Senator Mathern was hearing that injured workers are unable to get legal counsel, there are very few attorneys that will take cases anymore, so he was wondering if this really reflected that there are less need or just very few attorneys that will take cases of reimbursement. Mr. Edison replied that in the yearly years, attorneys fee were paid win or loss and then there were some changes made. There are less firms that will handle workman's compensation cases and that may be influenced by the fact that you have to show merits to your case, you have to win in order to proceed. Since the subject is getting so specialized, there are some firms that still handle workmen's compensation cases but with a requirement that the injured worker has to show merit to their case. They are getting more selective. Workmen's Compensation does offer a not cost alternative for workers to resolve their disputes with them through the Office of Independent Review which is located at 26th and Rosser, Bismarck. Senator Lindaas (#3293) On page 3 on the wage-loss claims reported, should there be a medical/hospital in the case of an injury/treatment or whatever, should that be separate or what? Mr. Edison responded that the first chart on that page shows all clients so it includes medical, rates, etc. The bottom chart shows time lost by an injured worker, so the two take in to account medical also.

Tammy Dolan (#3405) Vice President of Fiscal and Information Services for North Dakota Workers Compensation (NDWC). Her testimony is attached (Exhibit #3). Ms Dolan explained the Worker's Compensation budget request. She stated that NDWC is funded entirely by employer premiums and does not receive any general fund dollars. The Executive recommendation for 2003-05 is \$32,673,205 a 3.3% increase over last biennium. Executive recommendation for FTEs is the same as last biennium, 228, with \$23,399,408 for funding for

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Senate Appropriations Committee

Bill/Resolution Number SB 2003-2623

Hearing Date January 20, 2003

FTEs. This includes 228 FTE, 6 temps, and 10 board members. Senator Tallackson (#3588).

Wanted to know about the building, the payment, capitol assets, or what? Ms. Dolan explained that it was a continuing appropriation and is not included in our regular appropriation line item. That is not reflected on this budget. That was a separate line item that tracked separately.. That will be discussed late. Senator Holmberg stated that it was attachment 3 on exhibit #3.

This amount also includes \$716,932 for pay increases in the next biennium. The Executive Budget Recommendation includes \$7,643,797 in operating expenses for the next biennium. The construction of the new building is projected to save nearly \$600,000 in the next biennium by eliminating almost \$1 Million dollars in rental payments. Attachment 3, exhibit # provides an update on the building's progress. Mrs. Dolan stated that they were under budget (approximately \$1.15 million--according to the estimates that they received) on the building.

Total cost of the project including the land will be about \$11.8 million dollars. Exhibit #4 is a fact sheet regarding the new building. They are about 60% complete and they are on time They think they will be moving in about the first part of May. The rest of the tenants will be moving in about June, so by the end of June it will be fully occupied.

To expand and improve workers compensation services in eastern North Dakota. NDWC's

Board of Directors has set a goal to open a customer service center in Fargo by July 2003.

Currently, NDWC maintains a field office in Fargo staffed with 3 policyholder premium auditors, 3 loss prevention specialists, and 2 nurse case managers. These employees work mainly in the field, as their office space and computer connections do not allow for personal meetings with employers or employees. The expanded customer service is expected to house current staff, as well as claims, policyholder service, and customer service professionals to provide a

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Senate Appropriations Committee

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Hearing Date January 20, 2003

full-service center to our constituency in eastern North Dakota. In addition, this office will be electronically linked to the main office building in Bismarck, allowing for video conference capabilities. Currently discussions occur via telephone, by mail or by traveling to Bismarck. The estimated additional cost for this customer service center is \$324,000 for additional rental space, operating costs, necessary equipment and moving expenses.

Another goal adopted by the Board is to provide enhanced web-based information and e-commerce solutions to North Dakota employers, employees and medical providers, NDWC intends to offer as many workers compensation functions as possible over the Internet by 2004. Current plans would allow North Dakota employees and businesses to complete claim filing, review claim cost, apply for insurance coverage, verify account billing and payment activity, pay premium bills, print certificates of insurance, and file payroll reports over the Internet. To meet this goal it will require NDWC to overhaul and replace its current web-based applications with IBM Websphere technology. The additional costs are expected to be about \$475,000 while staff training and professional development will require a commitment of \$250,000. The Executive Budget Recommendation provides \$370,000 for equipment purchases in the next biennium. Due to NDWC's commitment to technology, the majority is earmarked for replacement of several different computer pieces, software, servers, etc. Also included in the recommended budget is the safety partnership grant program. This program began in 1999 and has helped prevent workplace injuries over the past four years by targeting high-risk occupations and allowing those industries to customize their own specific safety program based on first hand experiences.

Attachment 4 exhibit #3 is a summary of the most recent grants awarded and results achieved

.Questions:

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Hearing Date January 20, 2003

Senator Mathern: (#5206) Will the Office of Independent Review be available in Fargo with your extension into Fargo? Ms. Dolan & Mr. Edison responded that it had been discussed, but Mr. Edison replied that getting a claims representative and customer service representative in first, there has been talk about getting a special investigator for the Fargo office also. The NDWC is not looking at increasing their FTEs for the Fargo office, but asking if any of their Bismarck people would like to move there. Senator Robinson: (#5395): Wanted to know if NDWC was proactive about keeping injured workers off the welfare rolls and what information does the NDWC have regarding those injured workers migrating to Human Services? Any tracking? Mr. Edison replied that he didn't know if they had any data on that, wasn't aware of any problem but he hadn't researched it either. Senator Robinson continued regarding the migration from one agency to another, Human Services to Corrections, and back and forth. Mr. Edison replied that if they were injured and were getting benefits from NDWC then they wouldn't be eligible through other agencies.

Senator Holmberg reminded the committee that the Grain Dealers were putting on a luncheon for the Legislators and asked that the questions cease for now, and that the people from the NDWC come back in the afternoon at 2 pm. Recess until 2 pm. (#5807).

Meeting was called back to order at 2 pm with NDWC (#5810). On SB 2023

Senator Robinson (#5850) His concerns were with the formulas and when they are determined, is there ever any time when the payments to the injured worker are such that they drive them to other agencies? Mr. Edison: He had more information, regarding the rates for disability payments in North Dakota (Exhibit #5). A percentage of wages is 66.23% of pre-injury wages that is set as a benefit rate. There is a maximum rate that is 110% of the statewide average

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Hearing Date January 20, 2003

weekly wage and a minimum of 60% of the state wide weekly wage. So NDWC calculates the state wide average weekly wage in ND and a disability benefits are subject to basically 66 2/3 of the pre-injury wages with a minimum and maximum of 60% or 110% of weekly wage. End of Tape #2 Side A

Begin Tape #2 Side B

Senator Robinson continued ((#1) How many board members and how are they compensated?

How frequently do they meet? Mr. Edison: We have 10 members (Board), we do have a bill to add an 11th member so would be an at large member, reason for that is to maybe recruit some expertise that doesn't fit within the classification. Payment for the board members, last session gave some flexibility for the board to set the payments, and the board set the rate for what the legislators receive during interim. They meet at least once quarterly, 4 scheduled for 2003 and some special meetings during session (conference call every Thursday morning at 8:30am).

Senator Lindaas (#103): Will the cost of \$324,000 for the new office in Fargo be an ongoing cost? Ms Dolan: The ongoing costs will be the regular operating costs, we are in negotiations right now, so NDWC is not sure what the ongoing costs will be. Senator Lindaas continued:

Those that get grants is there some accountability? Ms. Dolan: They do financial reporting each time they have expenses that need to be reimbursed, operational reporting. Mr. Edison stated that there is an internal audit department, the Board also has an audit committee, so our internal audit department reports directly to audit committee and they do an audit all parts of our program. Also the performance evaluation also does an audit. Senator Kilzer (#309) Is NDWC fully manned for investigation of employer fraud, employee fraud and medical provider fraud? Mr. Edison: Our investigator was elected to the Sheriff position and NDWC has hired a fraud

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Senate Appropriations Committee

Bill/Resolution Number SB 2003 <sup>2003</sup>

Hearing Date January 20, 2003

investigator to replace him and at this time we do not have plans to add additional fraud investigators in-house. We do private investigator on a contract basis. We have talked about hiring an investigator in Fargo, but as far as right now, there are no plans for anymore investigators. Senator Kilzer continued: 4 nurses used to go over about 20% of the bills submitted, has that program been expanded? Ms Dolan and Mr. Edison responded that on page 7 of her testimony that there are 9 FTEs of which there are 4 that are bill auditors. Senator Kilzer continued: What percentage of the bills are actually reviewed by the medical people? Ms. Dolan; she wasn't sure what the number, didn't have the number with her, she would get back to Senator Kilzer with the figure. Mr. Edison stated that the information should be in the Quarterly Report (page 3-2) that is exhibit #6. Senator Krauter (#732) wanted to know how they came up with the figure of \$13.00 per sq. Ft. And the second question: Some of these agencies coming into the new building went from \$8.00 per sq ft with lots of square footage to \$13.00 rate and less square footage, can you tell us why? Mr. Edison stated that OMB gave NDWC those agencies that needed to move. Ms. Dolan replied, that NDWC worked with a Realtor on the rate per square foot -- what the cost of building - current costs of the building and tried to build in a 5% rate of return over 20 years and then looked at the costs and spread them and used the formula, and then at the market and it was figured it was within reason. Senator Krauter: So OMB made all the decisions? Ms. Dolan: Yes, it was designed that way, we meet with the agencies, allowed them to design their space, etc. As far as choosing them, OMB told us who was coming in. They had a process they worked with to do the choosing. Senator Krauter would like to know from OMB how they choose the tenants, small agencies with small budgets why would they be going from \$8.00 per sq. Ft to \$13.00 per sq. Ft. Why? OMB: that was actually done with facilities

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Senate Appropriations Committee

Bill/Resolution Number SB 2003-2023

Hearing Date January 20, 2003

management which is part of OMB. It was done by the agencies that have been coming in every year asking for more space. The budgets for the smaller agencies were increased to cover the new rents. Senator Krauter continued with the agencies that are now going to pay more rent when they were paying less before. OMB responded that most of these smaller agencies who were paying those cheaper fees where in very poor quarters. They needed to be moved into decent working environments.

NDWC also enclosed their response to Senator Steneham and Rep. Berg (Exhibit #7).

Hearing was closed on SB 2023. (#1218)

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# 2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2023

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-12-03

Tape Number	Side A	Side B	Meter #
1	x		441 -995
Committee Clerk Signature <i>Sandra Davis</i>			

Minutes: (Meter 475) Chairman Holmberg opened the hearing to SB 2023. He proposed the amendment (38046.0101) to the bill and explained their purpose. There was a motion of a do pass for the amendment with a motion made by Senator Robinson and seconded by Senator Andrist. (Meter 604) A question about the salaries was asked by Senator Mathern. Senator Robinson explained the changes that there was a pool of money set aside which was included in the governor's budget and the money was in excess of the agencies needs. Joe Morrisette helped explain the salary issues about the agencies budget planning. (Meter 794) A voice vote passed the amendments. A motion was made by Senator Robinson and a seconded by Senator Andrist for a Do Pass as amended. Discussion by Senator Krauter about space costs. (Meter 895) Senator Grindberg added conversation about the office space for the agency. (Meter 949) The bill passed with a vote of 11 yeas, 0 nays and 3 absent. Senator Robinson will carry the bill to the Senate floor.

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Operator's Signature Date

38046.0101  
Title 0200  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Senate Appropriations  
February 7, 2003

*JL3*  
2-12-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2023

Page 1, line 9, replace "32,673,205" with "32,421,470"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2023 - Workers Compensation Bureau - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Workers Compensation Bureau	<u>\$32,673,205</u>	<u>(\$251,735)</u>	<u>\$32,421,470</u>
Total all funds	\$32,673,205	(\$251,735)	\$32,421,470
Less estimated income	<u>32,673,205</u>	<u>(251,735)</u>	<u>32,421,470</u>
General fund	\$0	\$0	\$0
FTE	228.00	0.00	228.00

Dept. 485 - Workers Compensation Bureau - Detail of Senate Changes

	REMOVES RECOMMENDED SALARY INCREASE 1	TOTAL SENATE CHANGES
Workers Compensation Bureau	<u>(\$251,735)</u>	<u>(\$251,735)</u>
Total all funds	(\$251,735)	(\$251,735)
Less estimated income	<u>(251,735)</u>	<u>(251,735)</u>
General fund	\$0	\$0
FTE	0.00	0.00

1 This amendment removes the Governor's recommendation for state employee salary increases and retains the recommended state payment for health insurance premiums.

Amendments  
vice pass  
100

Date: 2-14-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2023

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38046.0101

Action Taken Do Pass

Motion Made By Robinson Seconded By Andrist

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman					
Senator Bowman, Vice Chair					
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann					
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Robinson

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

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Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
February 12, 2003 3:54 p.m.

Module No: SR-27-2484  
Carrier: Robinson  
Insert LC: 38046.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**  
**SB 2023: Appropriations Committee (Sen. Holmberg, Chairman) recommends**  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2023 was placed on the Sixth  
order on the calendar.

Page 1, line 9, replace "32,673,205" with "32,421,470"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2023 - Workers Compensation Bureau - Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Workers Compensation Bureau	<u>\$32,673,205</u>	<u>(\$251,735)</u>	<u>\$32,421,470</u>
Total all funds	\$32,673,205	(\$251,735)	\$32,421,470
Less estimated income	<u>32,673,205</u>	<u>(251,735)</u>	<u>32,421,470</u>
General fund	\$0	\$0	\$0
FTE	228.00	0.00	228.00

**Dept. 485 - Workers Compensation Bureau - Detail of Senate Changes**

	REMOVES RECOMMENDED SALARY INCREASE <sup>1</sup>	TOTAL SENATE CHANGES
Workers Compensation Bureau	<u>(\$251,735)</u>	<u>(\$251,735)</u>
Total all funds	(\$251,735)	(\$251,735)
Less estimated income	<u>(251,735)</u>	<u>(251,735)</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> This amendment removes the Governor's recommendation for state employee salary increases and retains the recommended state payment for health insurance premiums.

2003 HOUSE APPROPRIATIONS

SB 2023

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Date

*10/15/03*

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2023

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date March 4, 2003

Tape Number	Side A	Side B	Meter #
1	X	X	
Committee Clerk Signature <i>Celste Keller</i>			

Minutes:

**Chairman Martinson** opened the hearing on SB 2023, Workers Compensation Bureau. All members of the committee were present with the exception of Rep. Wald.

**Bob Induik**, Vice Chair of the North Dakota Workers Compensation Board of Directors, testified in favor of SB 2023. The board's vision of North Dakota Workers Compensation is that the organization be a recognized national leader in providing superior workers compensation products and services to employers, employees and providers. This vision comes to reality through innovation and initiative by management and staff along with the continued strong support of the legislature. Their appropriation request was drafted with this vision in mind as well as their mission of providing quality, comprehensive workers compensation products and services. He asked the committee to give favorable consideration to their appropriation request.

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*10/15/03*  
Date

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Education and Environment Division

Bill/Resolution Number 2023

Hearing Date March 4, 2003

**Brent Edison**, Executive Director and CEO of Workers Compensation, testified in favor of SB 2023. See testimony attached which includes a response to requested information from House and Senate majority leadership.

**Tammy Dolan**, Vice President of Fiscal and Information Services at Workers Compensation, testified in favor of SB 2023. See testimony attached.

**Rep. Guleson** Regarding the rates that you will be charging for the office space, how does that compare with other space offered in Bismarck?

**Dolan** We worked with a Realtor that was helping us buy the land to calculate the rental rates for the building. In Bismarck it is pretty hard to compare new office space because there isn't a lot of it. If you compare it to new office space in the Fargo area, it is on the lower end of what is being charged for comparable space. In Bismarck, there isn't a lot of new office space out there, so if you were to compare it to some of the older buildings it probably is a little higher. For the type of space that it is, it is on the lower end of what would be a market rate for that.

**Chairman Martinson** But not necessarily in Bismarck?

**Dolan** That's correct.

**Chairman Martinson** If it were in Minneapolis?

**Dolan** That is probably correct too, it is probably different as compared to Minneapolis.

**Edison** On that point, we did have a Realtor in town advise the organization on this and basically assured us that what we would be talking about here is the reasonable market rental price. The \$13 per square foot was based on that advise.

**Chairman Martinson** Do you have anyone that is interested in renting from you that is not a state agency?

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Education and Environment Division  
Bill/Resolution Number 2023  
Hearing Date March 4, 2003

**Edison** Yes. I have received inquiries from private tenants that would have liked to have had opportunity, but OMB did take all of the space.

**Chairman Martinson** OMB didn't take all of the space, there are other state agencies. So you are saying if we decided not to allow state agencies into that building, that you would feel comfortable with having private parties rent it?

**Edison** We went from a two story building to a four story building to make this space available which is going to be an attractive location and would be attractive property for private tenants.

**Chairman Martinson** If we thought that you could rent it to private parties, we would probably be interested in having state agencies stay where they are at a less rent. It is costing most of them more money. They are either spending more money to go to your building or they are getting less space and staying at the same rent.

**Dolan** One point on that, we have had calls from people but I don't think we would have it filled July 1st, I think it would take some time. Right now the building will be full when complete and the space was designed with each state agency for their needs. There would be some adjustments we would need to make to the building for that, and those would be at some cost, but I think it could be filled at some point in the future.

**Rep. Guleson** Do you have a list of which state agencies are going in there?

**Dolan** The state agencies are listed in the testimony. We have the North Dakota Commerce Department, Parks and Recreation, the Human Services Department has two separate divisions that are going to be in there which are Child Support Enforcement and the Provider Audit divisions. I believe they are at Northbrook Mall right now. We also have North Dakota Council



Page 4  
Education and Environment Division  
Bill/Resolution Number 2023  
Hearing Date March 4, 2003

on the Arts and the Risk Management Division of OMB. Each one of these agencies has entered into a lease arrangement with us that covers the next two years.

Dolan continued with her testimony on operating expenses.

Rep. Aarsvold In your concluding remarks you said you have the lowest premiums in the country and disbursements by claims are in the top third. That indicates to me some bleeding of resources. Could you explain this?

Dolan What that statement means is that the benefits were provided to injured workers for replacement of lost wages. The benefits we are providing to them rank in the top of the nation. It does not mean that our claims payouts are in the top third of the nation. The total claims costs are not the highest, but the benefit levels that we provide to injured workers are.

Edison A study in June of 2002 was based upon the amount of dollars and benefits paid per \$100 of payroll. You can look at \$100 of payroll from state to state and compare the benefit payouts with \$100 of payroll paid in the state. That ratio shows us in the top third, that is where that comes from.

Rep. Aarsvold I still have some difficulty understanding that.

Rep. Gulleason What is the current fund balance?

Dolan As of June 30, 2002, our net assets were \$386 million. Of that amount, \$300 million is designated to replace the discount. We discount our claims liability at 6% and we want to move away from that. That is not always done in the workers compensation industry. Our board has set a goal to become undiscounted which would be more fiscally conservative. We are currently \$16 million short, whereas of June 30, 2002 we were \$16 million short of being solvent on an undiscounted basis. This means if we would have went undiscounted last year and booked our

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Education and Environment Division  
Bill/Resolution Number 2023  
Hearing Date March 4, 2003

claims liability with no discount, we would have had a fund deficit of \$16 million. The board's goal is we will move to an undiscounted basis only when we can do that without recording a deficit for the fund. At the same time that they set the goals to move to an undiscounted basis they also set a fund surplus, which is now net assets because of a change in accounting terminology, to have a fund surplus, net assets, of about half a years premium which is about \$50 million. Our ultimate goal set by the board would be to book our liabilities at an undiscounted basis and still have a fund balance of around \$50 million. We are not quite there yet.

**Rep. Wald** If you close your doors today and never took in another dollar of premium and never had anymore claims reported, you'd have enough money to pay all of the claims that have been reported and have \$86 million in reserve, is that another way of stating it?

**Dolan** No.

**Rep. Wald** What was the \$50 million figure you just mentioned?

**Dolan** The \$50 million is the goal for our fund surplus balance. We want to be able to pay our claims on an undiscounted basis. Right now as of June 30, 2002, on our books we still are recording our liabilities on a discounted basis. If we were to close our doors at that time we would have to pay out the full amount of the liability and as of June 30th we would be at a deficit of \$16 million to do that. Once we reach the \$50 million dollar goal and we are undiscounted, if we were to close our doors we would be in a much better situation because we have the \$50 million.

**Rep. Wald** You had a turnover problem with claims analysts, what is the situation there today?

**Edison** If you look in the quarterly operating report that has been included with the letter to the majority leadership, in the quarter ending December 31st, there was a .9% turnover in the claims

Page 6

Education and Environment Division

Bill/Resolution Number 2023

Hearing Date March 4, 2003

analyst area which is a tremendous reduction in turnover that we've had. I know that was one of the concerns when we reported our performance evaluation to the legislative audit and fiscal review committee. We were very pleased when this report came out which shows that very low turnover in the claims analyst area, so it is a very positive development. To come back to your previous question of the funding we've got, if you look at our liabilities, those claims we know we are going to have to pay, and if you assume investment income of 6%, that's \$670 some thousand. If we assume the earnings we had last year and did not take into account 6%, that jumps up to \$900 some million. If we shut it down today and we did not have any investment income, then we would not be able to pay all those claims as they come due. The board wants to get to a point where they don't have to rely on investment income and have enough money in the bank to pay those future claims plus some additional surplus because as this past year showed, we could have negatives there. We are short a solvency on an undiscounted basis.

**Rep. Gulletson** I am wondering what the thoughts were behind putting a public relations division in place. It seems if workers feel that they are reasonably compensated and the business people feel like their premiums are in order, why do you need a public relations department?

**Edison** Our public relations department is two people. They perform a valuable communication function which is both an education effort and a safety message. I can also tell you that those two people wear a lot of hats and do many other duties as assigned in the organization. We think it is important to get a positive message out there, and that's beneficial to all the constituents in this system. We've also tried to have a safety message to everything we do and part of the public relations is getting that message out there as well. A critical part of the public relations department is communication. We've tried to improve our web site and newsletter, and we've

Page 7

Education and Environment Division

Bill/Resolution Number 2023

Hearing Date March 4, 2003

tried to be more accountable, open and transparent as an organization and a key part of that is communication. I think that is a commitment of the board and the staff to have better communication and better access. We're more open, we lay it out there and public relations is part of that effort.

Chairman Martinson closed the hearing on SB 2023 as there were no additional comments or testimony.

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LaCosta Rickford  
Operator's Signature

10/15/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2023

House Appropriations Committee  
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date March 24, 2003

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature <i>Celste Keller</i>			

Minutes:

**Chairman Martinson** opened the hearing on SB 2023, Workers Compensation Bureau, all members of the committee were present.

**Rep. Wald** The consensus out of his sub committee was to pass it out exactly the way it came from the Senate. Rep. Wald proceeded to review some of the Senate changes and moved a do pass on SB 2023.

**Rep. Brusegaard** Second.

**Rep. Gulleson** I am amenable to the budget as you see it. A quick statement regarding salaries of this division, because I know salaries are going to come up in some other divisions, particularly Department of Public Instruction. Workers Compensation employees, especially the attorneys, have seen considerable increases over the last couple of bienniums. Their salaries as compared with the legislative council attorneys are substantially higher. I want to highlight the

Page 2

Education and Environment Division

Bill/Resolution Number 2023

Hearing Date March 24, 2003

fact that there are a number of budgets where we've seen increases in a variety of levels and we can request those salary increases if need be.

Chairman Martinson Is there any other discussion? On a motion for a do pass, would you call the roll please.

**ROLL CALL VOTES ON A MOTION FOR A DO PASS**

**6 YES      0 NO      1 ABSENT**

Rep. Wald will carry the bill.

Chairman Martinson closed the hearing on SB 2023.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2023

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-27-03

Tape Number	Side A	Side B	Meter #
1	X	X	37.0 - 6.0
Committee Clerk Signature <i>Chris J. Nyberg</i>			

Minutes:

**Chairman Svedjan** Opened SB 2023 for discussion. A quorum was present.

**Rep. Wald** This is the Worker's Compensation budget. **I move a Do Pass As Amended. 2nd**  
**by Rep. Bellew.**

**Rep. Kroeber** Were attorney salaries discussed? Worker's Compensation has higher paid attorneys.

**Rep. Gulleason** There were large increases in their salaries.

**Rep. Wald** The building project is 1 million dollars under budget.

**Rep. Aarsvold** Are they bringing maintenance from the other building?

**Rep. Wald** I assume.

**Rep. Kerzman** What's the payout ratio versus the premiums?

**Rep. Wald** There is an 80% loss ratio.

**Rep. Timm** What is the \$250,000 to enhance their web site?

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Operator's Signature

*10/15/03*  
Date

Page 2  
House Appropriations Committee  
Bill/Resolution Number SB 2023  
Hearing Date 03-27-03

**Rep. Wald** It goes to employer access, industry access, and claim enhancement.

**Rep. Timm** Does that go to ITD?

**Rep. Wald** Its in house, and some are contractual services.

**Rep. Warner** Are Worker's Compensation employees classified?

**Sandy Paulson, OMB** No, they are unclassified.

**Rep. Carlson** I use Worker's Compensation in my business. Its better than it has ever been.

**Rep. Kroeber** But there are some problems.

**Rep. Wald** That is true. People fell through the cracks, but no company is perfect. It has improved greatly.

**Rep. Wald** I move a Do Pass As Amended. 2nd by Rep. Monson. Motion Carries 21-0-2.

**Rep. Wald** will carry this on the floor.

Lacosta Rickford  
Operator's Signature

10/15/03  
Date



2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2023

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-31-03

Tape Number	Side A	Side B	Meter #
2		X	3.0 - 4.0
Committee Clerk Signature <i>Chris S. Nylund</i>			

Minutes:

Rep. Wald I move to reconsider our actions on SB 2023. 2nd by Rep. Monson.

Motion Carries.

I move amendment .0201 to SB 2023. 2nd by Rep. Skarphol.

Motion Carries.

I move a Do Pass As Amended. 2nd by Rep. Monson.

Motion Carries 21-0-2. Rep. Wald will carry this bill on the floor.

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*10/15/03*  
Date

Date: March 24, 2003  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2023**

House Appropriations Education/Environment Division Committee

☐ Check here for Conference Committee

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

Action Taken DO PASS

Motion Made By Rep. Wald Seconded By Rep. Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Representative Martinson	X				
Representative Brusegaard	X				
Representative Monson	X				
Representative Rennerfeldt	X				
Representative Wald	X				
Representative Aarsvold					
Representative Gulleason	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Rep. Wald

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

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Date

10/15/03

REPORT OF STANDING COMMITTEE (410)  
March 27, 2003 9:30 a.m.

Module No: HR-55-5883  
Carrier: Wald  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE  
SB 2023, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends DO PASS (19 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING).  
Engrossed SB 2023 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE (410)  
April 1, 2003 1:25 p.m.

Module No: HR-58-6332  
Carrier: Wald  
Insert LC: 38046.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2023, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2023 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "32,421,470" with "32,397,631"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2023 - Workers Compensation Bureau - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Workers Compensation Bureau	\$32,673,205	\$32,421,470	(\$23,839)	\$32,397,631
Total all funds	\$32,673,205	\$32,421,470	(\$23,839)	\$32,397,631
Less estimated income	<u>32,673,205</u>	<u>32,421,470</u>	<u>(23,839)</u>	<u>32,397,631</u>
General fund	\$0	\$0	\$0	\$0
FTE	228.00	228.00	0.00	228.00

Dept. 485 - Workers Compensation Bureau - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE <sup>1</sup>	TOTAL HOUSE CHANGES
Workers Compensation Bureau	(\$23,839)	(\$23,839)
Total all funds	(\$23,839)	(\$23,839)
Less estimated income	<u>(23,839)</u>	<u>(23,839)</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> This amendment reduces funding for state employee health insurance premiums from \$493 per month to \$488.70 per month.

2003 TESTIMONY

SB 2023

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Operator's Signature

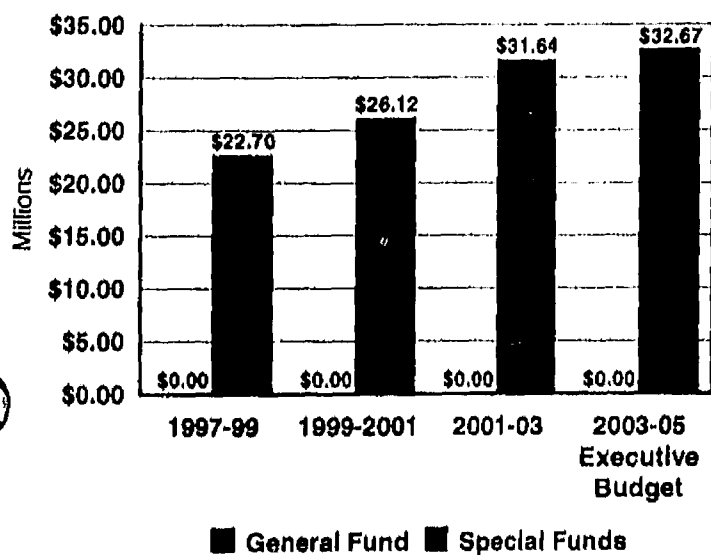
10/15/03  
Date

**Department 485 - Workers Compensation Bureau  
Senate Bill No. 2023**

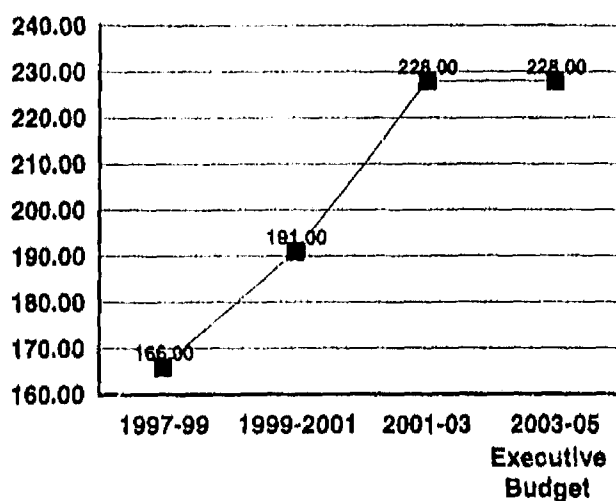
	FTE Positions	General Fund	Other Funds	Total
2003-05 Executive Budget	228.00	\$0	\$32,673,205	\$32,673,205
2001-03 Legislative Appropriations	228.00 <sup>1</sup>	0	31,641,340	31,641,340
Increase (Decrease)	0.00	\$0	\$1,031,865	\$1,031,865

<sup>1</sup> The 2001-03 FTE positions were adjusted from 218.00 to 228.00 in accordance with Section 2 of 2001 House Bill No. 1024 that allowed the Workers Compensation Board of Directors to authorize the Workers Compensation Bureau to hire up to 10 FTE positions upon a determination that employees are needed to facilitate the economic and efficient administration of the bureau.

**Agency Funding**



**FTE Positions**



**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Adjusts funding for salaries and wages and operating expenses due to the elimination of contracted employees		(\$484,638)	(\$484,638)
2. Adjusts funding for salaries and wages, operating expenses, and capital assets to reflect past spending and future anticipated needs		\$1,092,028	\$1,092,028
3. Decreases funding for capital assets		(\$866,457)	(\$866,457)
4. Increases funding to enhance the bureau's web-based services		\$250,000	\$250,000
5. Increases funding to expand the bureau's services in the Fargo area		\$324,000	\$324,000

**Major Related Legislation**

**House Bill No. 1065 - Name change** - This bill changes the name of the Workers Compensation Bureau to Workforce Safety and Insurance.

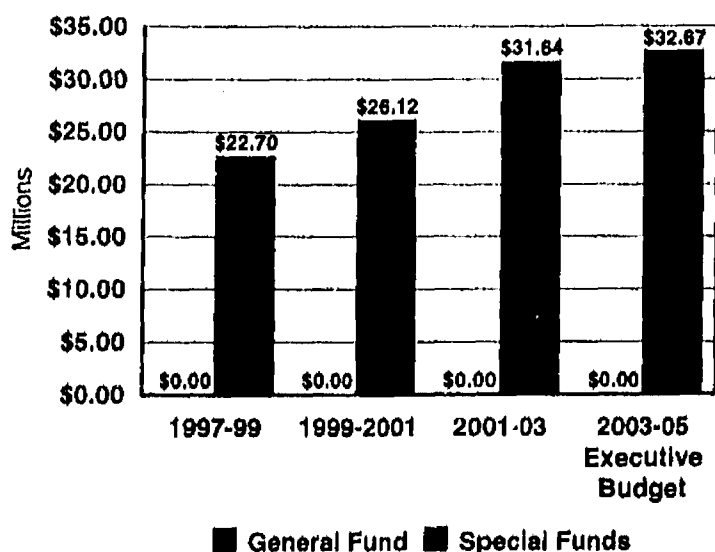
**House Bill No. 1150 - Workers Compensation Bureau Board of Directors** - This bill increases the size of the Workers Compensation Bureau Board of Directors from 10 to 11 and reduces the board members' length of term from six years to four years.

**apartment 485 - Workers Compensation Bureau  
Senate Bill No. 2023**

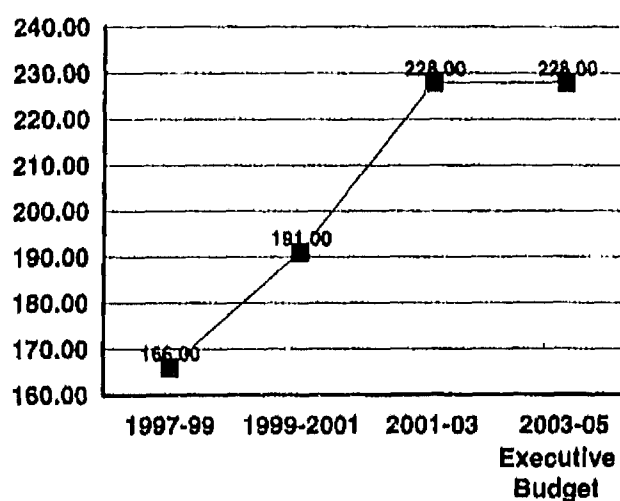
	FTE Positions	General Fund	Other Funds	Total
2003-05 Executive Budget	228.00	\$0	\$32,673,205	\$32,673,205
2001-03 Legislative Appropriations	228.00 <sup>1</sup>	0	31,641,340	31,641,340
Increase (Decrease)	0.00	\$0	\$1,031,865	\$1,031,865

<sup>1</sup> The 2001-03 FTE positions were adjusted from 218.00 to 228.00 in accordance with Section 2 of 2001 House Bill No. 1024 that allowed the Workers Compensation Board of Directors to authorize the Workers Compensation Bureau to hire up to 10 FTE positions upon a determination that employees are needed to facilitate the economic and efficient administration of the bureau.

**Agency Funding**



**FTE Positions**



**First House Action**

Attached is a summary of the first house changes.

**Executive Budget Highlights  
(With First House Changes Noted)**

	General Fund	Other Funds	Total
1. Adjusts funding for salaries and wages and operating expenses due to the elimination of contracted employees		(\$484,638)	(\$484,638)
2. Adjusts funding for salaries and wages, operating expenses, and capital assets to reflect past spending and future anticipated needs		\$1,092,028	\$1,092,028
3. Decreases funding for capital assets		(\$866,457)	(\$866,457)
4. Increases funding to enhance the bureau's web-based services		\$250,000	\$250,000
5. Increases funding to expand the bureau's services in the Fargo area		\$324,000	\$324,000

**Major Related Legislation**

**House Bill No. 1065 - Name change** - This bill changes the name of the Workers Compensation Bureau to Workforce Safety and Insurance.

**House Bill No. 1150 - Workers Compensation Bureau Board of Directors** - This bill increases the size of the Workers Compensation Bureau Board of Directors from 10 to 11 and reduces the board members' length of term from six years to four years.

02/28/03

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2023 - Funding Summary**

	Executive Budget	Senate Changes	Senate Version
Workers Compensation Bureau			
Workers compensation bureau	\$32,673,205	(\$251,735)	\$32,421,470
Total all funds	\$32,673,205	(\$251,735)	\$32,421,470
Less estimated income	32,673,205	(251,735)	32,421,470
General fund	\$0	\$0	\$0
FTE	228.00	0.00	228.00
Bill Total			
Total all funds	\$32,673,205	(\$251,735)	\$32,421,470
Less estimated income	32,673,205	(251,735)	32,421,470
General fund	\$0	\$0	\$0
FTE	228.00	0.00	228.00

**Senate Bill No. 2023 - Workers Compensation Bureau - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Workers compensation bureau	\$32,673,205	(\$251,735)	\$32,421,470
Total all funds	\$32,673,205	(\$251,735)	\$32,421,470
Less estimated income	32,673,205	(251,735)	32,421,470
General fund	\$0	\$0	\$0
FTE	228.00	0.00	228.00

**Department No. 485 - Workers Compensation Bureau - Detail of Senate Changes**

	Removes Recommended Salary Increase <sup>1</sup>	Total Senate Changes
Workers compensation bureau	(\$251,735)	(\$251,735)
Total all funds	(\$251,735)	(\$251,735)
Less estimated income	(251,735)	(251,735)
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> This amendment removes the Governor's recommendation for state employee salary increases and retains the recommended state payment for health insurance premiums.

SB2023



# 58<sup>th</sup> Legislative Assembly

## NORTH DAKOTA Workers Compensation

Putting safety to work

## Legislative Initiatives

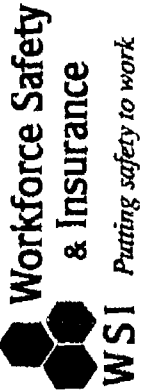
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La Costa Rickford  
Operator's Signature

10/15/03  
Date

No	Department	Description of Initiative	Statutes Affected	Drafter Comments
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## 2003 Legislative Initiatives

1	Executives	<p>-Initiative to change the name of the agency to Workforce Safety &amp; Insurance</p> <div data-bbox="519 1331 729 1802">  </div>	65-01-02 65-01-17 65-02-01.1	Approved
2	Executive/ Finance	<p>-Makes the board's medical representative a voting member of the board</p> <p>-Adds an additional at-large member to the board</p> <p>-Shortens board member terms to 4 years from the current 6 year term</p> <p>-Limits terms of office to 3 consecutive 4 yr terms</p> <p>-Allows state auditor, in consultation with the board, to determine upon which departments an independent performance evaluation is to be conducted</p>	65-02-03.1 . . . 65-02-23 65-02-30 65-03-04	Approved
3	PHS/ Loss Prevention	<p>-Allows the director to opt-out of participation in a third-party action</p> <p>-Removes expiration date for the state entities account</p> <p>-Information contained in employer certificates of coverage</p> <p>-Provides for the limited release of information from employer files</p>	65-01-09 65-04-03.1 65-04-04 65-04-15	Approved

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*La Costa Rickford*

Date

10/15/03

No	Department	Description of Initiative	Statutes Affected	Drafter Comments
		<ul style="list-style-type: none"> <li>-Provides for personal liability of a partner in a limited liability partnership for failure to pay premiums or file premium reports</li> <li>-Clarifies when notice of decisions are issued</li> <li>-Clarifies penalties for failure to secure workers compensation coverage</li> <li>-Allows NDWC to bill and impose a penalty for an employer's failure to pay medical assessment within 30 days from date of billing rather than 90 days</li> <li>-Allows an employer in any approved risk management program to select preferred providers to render medical treatment</li> <li>-Amends language relating to volunteer disaster emergency trainees and volunteer firefighters</li> <li>-Repeal - State agency participation in risk management program</li> <li>-Repeals Chapter 65-14 of the NDCC (We have adopted the OSHA standards, NDAC 92-02-01-01).</li> </ul>	65-04-26.1  65-04-32 65-04-33 65-05-07.2  65-05-28.1  65-06-01 & 65-06-02  65-04.19.2 65-14	

Lacosta Rickford  
Operator's signature

10/15/03  
Date

No	Department	Description of Initiative	Statutes Affected	Drafter Comments
4	Claims	<ul style="list-style-type: none"> <li>-Simplifies formula for average weekly wage calculation of self employed employer</li> <li>-Simplifies definition of seasonal employment</li> <li>-Subpoena power - clarifies the mechanism available to enforce subpoenas issued by NDWC</li> <li>-Repeals provision for binding arbitration</li> <li>-Catastrophic claims - allows NDWC to expend up to \$50,000 for modifications to real estate (previous limit was \$20,000)</li> <li>-Increases death benefit cap from \$197,000 to \$250,000 for deaths occurring after Aug 1, 2003</li> <li>-eliminates remarriage penalty provisions for death benefit recipients for remarriages that occur after August 1, 2003</li> <li>-Repeals criminal offense for failure of death benefit recipients to notify NDWC of remarriage</li> <li>-Allows for lump sum settlement payments in death claims and for NDWC to utilize structured settlements or contract with a third-party to provide structured settlement payments</li> <li>-Provides a civil action for damages and establishes a criminal offense for willful retaliation by employers against employees for filing a workers compensation claim</li> <li>-Clarifies benefits provided pursuant to the preferred worker program apply both to preferred workers and employers who employ preferred workers</li> <li>-Clarifies partial disability benefits, dependency allowance, and post-injury earnings may not exceed an injured worker's pre-injury net wage</li> </ul>	65-01-02  65-01-02 65-02-11  65-02-15 & 65-02-20 65-05-07  65-05-17  65-05-21 65-05-22 65-05-24  65-05-25  65-05  65-05-36  65-05-10	Approved

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*LaCosta Rickford*

Date

10/15/03

**Legislative Initiative #1**

Fifty-eighth  
Legislative Assembly of  
North Dakota

**DRAFT**

Introduced by

A BILL for an Act to amend and reenact sections 65-01-02, 65-01-17, and 65-02-01.1, relating to changing the name of the workers compensation bureau to workforce safety & insurance; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-02. Definitions.** In this title:

1. "Acute care" means a short course of intensive diagnostic and therapeutic services provided immediately following a work injury with a rapid onset of pronounced symptoms.
2. "Adopted" or "adoption" refers only to a legal adoption effected prior to the time of the injury.
3. "Artificial members" includes only such devices as are substitutes for, and not mere aids to, a natural part, organ, limb, or other part of the body. The term does not include eyeglasses or contact lenses unless the eye is, or eyes are, injured as a result of a compensable injury, and such injury causes a change in sight which requires fitting of eyeglasses or contact lenses not previously worn by the injured worker or requires a change in existing prescription.
4. "Artificial replacements" means mechanical aids including braces, belts, casts, or crutches as may be reasonable and necessary due to compensable injury.
5. "Average weekly wage" means the weekly wages the employee was receiving from all employments at the date of first disability. The average weekly wage determined under this subsection must be rounded to the nearest dollar. In cases where the employee's wages are not fixed by the week, they must be determined by using the first applicable formula from the schedule below:
  - a. For seasonal employment, during the first consecutive days of disability up to twenty-eight days the average weekly wage is calculated pursuant to the first applicable formula in subdivisions b through g of this subsection, and after that are calculated as one-fiftieth of the total wages from all occupations during the twelve months preceding the date of first disability or during the tax year preceding the date of first disability, or an average of the three tax years preceding the date of first disability, whichever is highest and for which accurate, reliable, and complete records are readily available.
  - b. The "average weekly wage" of a self-employed employee is determined by the following formula: one-fiftieth of the net profits based on the preceding tax year or preceding fifty-two weeks whichever is higher if accurate, reliable, and complete records for those fifty-two weeks are readily available, plus depreciation, meal and travel expenses, and any expenses chargeable to use of personal residence as allowed under the federal tax laws.

- c. Hourly or daily rate multiplied by number of hours or days worked per seven-day week.
  - d. Monthly rate multiplied by twelve months and divided by fifty-two weeks.
  - e. Biweekly rate divided by two.
  - f. The usual wage paid other employees engaged in similar occupations.
  - g. A wage reasonably and fairly approximating the weekly wage lost by the claimant during the period of disability.
6. "Average weekly wage in the state" means the determination made of the average weekly wage in the state by job service North Dakota on or before July first of each year, computed to the next highest dollar.
7. "Board" means the North Dakota workers compensation board of directors.
8. "Brother" and "sister" include a stepbrother and a stepsister, a half brother and a half sister, and a brother and sister by adoption. The terms do not include a married brother or sister unless that person actually is dependent.
9. ~~"Bureau" means the North Dakota workers compensation bureau, or the director, or any department heads, assistants, or employees of the bureau designated by the director, to act within the course and scope of their employment in administering the policies, powers, and duties of this title.~~
10. "Child", for determining eligibility for benefits under chapter 65-05, means a child under eighteen years of age residing in the employee's household or to whom the employee has a legal obligation of support; or a child eighteen years of age or over and physically or mentally incapable of self-support who is actually dependent upon the employee for support; or any child between eighteen and twenty-two years of age who is enrolled as a full-time student in any accredited educational institution who is actually dependent upon the employee for support. This term includes a legitimate child, a stepchild, adopted child, posthumous child, foster child, and acknowledged illegitimate child, but does not include a married child unless actually dependent.
11. "Compensable injury" means an injury by accident arising out of and in the course of hazardous employment which must be established by medical evidence supported by objective medical findings.
- a. The term includes:
- (1) Disease caused by a hazard to which an employee is subjected in the course of employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. Disease includes effects from radiation.
  - (2) An injury to artificial members.
  - (3) Injuries due to heart attack or other heart-related disease, stroke, and physical injury caused by mental stimulus, but only when caused by the employee's employment with reasonable medical certainty, and only when it is determined with reasonable medical certainty that unusual stress is at least fifty percent of the cause of the injury or disease as compared with all other contributing causes combined. Unusual stress means stress greater than the highest level of stress normally experienced or anticipated in that position or line of work.
  - (4) Injuries arising out of employer-required or supplied travel to and from a remote jobsite or activities performed at the direction or under the control of the employer.
  - (5) An injury caused by the willful act of a third person directed against an employee because of the employee's employment.

(6) A mental or psychological condition caused by a physical injury, but only when the physical injury is determined with reasonable medical certainty to be at least fifty percent of the cause of the condition as compared with all other contributing causes combined, and only when the condition did not preexist the work injury.

b. The term does not include:

(1) Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases, except that North Dakota workers compensation may pay for preventive treatment for significant exposures documented by emergency medical services providers under chapter 23-07.3, for significant exposures for the employees of licensed facilities as defined by chapter 23-07.3, and for exposure to rabies occurring in the course of employment.

(2) A willfully self-inflicted injury, including suicide or attempted suicide, or an injury caused by the employee's willful intention to injure or kill another.

(3) Any injury caused by the use of intoxicants or the illegal use of controlled substances.

(4) An injury that arises out of an altercation in which the injured employee is an aggressor. This paragraph does not apply to public safety employees, including law enforcement officers or private security personnel who are required to engage in altercations as part of their job duties if the altercation arises out of the performance of those job duties.

(5) An injury that arises out of an illegal act committed by the injured employee.

(6) An injury that arises out of an employee's voluntary nonpaid participation in any recreational activity, including athletic events, parties, and picnics, even though the employer pays some or all of the cost of the activity.

(7) Injuries attributable to a preexisting injury, disease, or other condition, including when the employment acts as a trigger to produce symptoms in the preexisting injury, disease, or other condition unless the employment substantially accelerates its progression or substantially worsens its severity.

(8) A nonemployment injury that, although acting upon a prior compensable injury, is an independent intervening cause of injury.

(9) A latent or asymptomatic degenerative condition, caused in substantial part by employment duties, which is triggered or made active by a subsequent injury.

(10) A mental injury arising from mental stimulus.

42 11. "Date of first disability" means the first date the employee was unable to work because of a compensable injury.

43 12. "Date of maximum medical improvement" or "date of maximum medical recovery" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated based upon reasonable medical probability.

44 13. "Director" means the director of the bureau.

45 14. "Disability" means loss of earnings capacity and may be permanent total, temporary total, or partial.

46 15. "Doctor" means doctor of medicine or osteopathy, chiropractor, dentist, optometrist, podiatrist, or psychologist acting within the scope of the doctor's license.

47 16. "Employee" means a person who performs hazardous employment for another for remuneration unless the person is an independent contractor under the "common law" test.

a. The term includes:

(1) All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of the several counties of this state, and all elective peace officers of any city.

(2) Aliens.

(3) County general assistance workers except those who are engaged in repaying to counties moneys that the counties have been compelled by statute to expend for county general assistance.

(4) Minors, whether lawfully or unlawfully employed; a minor is deemed sui juris for the purposes of this title, and no other person has any claim for relief or right to claim workers' compensation benefits for any injury to a minor worker, but in the event of the award of a lump sum of benefits to a minor employee, the lump sum may be paid only to the legally appointed guardian of the minor.

b. The term does not include:

(1) Any person whose employment is both casual and not in the course of the trade, business, profession, or occupation of that person's employer.

(2) Any person who is engaged in an illegal enterprise or occupation.

(3) The spouse of an employer or a child under the age of twenty-two of an employer. For purposes of this paragraph and section 65-07-01, "child" means any legitimate child, stepchild, adopted child, foster child, or acknowledged illegitimate child.

(4) Any real estate broker or real estate salesperson, provided the person meets the following three requirements:

(a) The salesperson or broker must be a licensed real estate agent under section 43-23-05.

(b) Substantially all of the salesperson's or broker's remuneration for the services performed as a real estate agent must be directly related to sales or other efforts rather than to the number of hours worked.

(c) A written agreement must exist between the salesperson or broker and the person or firm for whom the salesperson or broker works, which agreement must provide that the salesperson or broker will not be treated as an employee but rather as an independent contractor.

(5) The members of the board of directors of a business corporation who are not employed in any capacity by the corporation other than as members of the board of directors.

(6) Any individual delivering newspapers or shopping news, if substantially all of the individual's remuneration is directly related to sales or other efforts rather than to the number of hours worked and a written agreement exists between the individual and the publisher of the newspaper or shopping news which states that the individual is an independent contractor.

(7) An employer.

c. Persons employed by a subcontractor, or by an independent contractor operating under an agreement with the general contractor, for the purpose of this chapter are deemed to be employees of the general contractor who is liable and responsible for the payments of premium for the coverage of these employees until the subcontractor or independent contractor has secured the necessary coverage and paid the premium for the coverage. This subdivision does not impose any liability upon a general contractor other than liability to the bureau for the payment of premiums which are not paid by a subcontractor or independent contractor.



- 48 17. "Employer" means a person who engages or received the services of another for remuneration unless the person performing the services is an independent contractor under the "common law" test. The term includes:
- a. The state and all political subdivisions thereof.
  - b. All public and quasi-public corporations in this state.
  - c. Every person, partnership, limited liability company, association, and private corporation, including a public service corporation.
  - d. The legal representative of any deceased employer.
  - e. The receiver or trustee of any person, partnership, limited liability company, association, or corporation having one or more employees as herein defined.
  - f. The president, vice presidents, secretary, or treasurer of a business corporation, but not members of the board of directors of a business corporation who are not also officers of the corporation.
  - g. The managers of a limited liability company.
  - h. The president, vice presidents, secretary, treasurer, or board of directors of an association or cooperative organized under chapter 6-06, 10-12, 10-13, 10-15, 36-08, or 49-21.
  - i. The clerk, assessor, treasurer, or any member of the board of supervisors of an organized township, if the person is not employed by the township in any other capacity.
- 49 18. "Fee schedule" means the payment formulas established in North Dakota workers compensation publication entitled "Medical and Hospital Fees".
- 20 19. "Fund" means the North Dakota workers' compensation workforce safety & insurance fund.
- 24 20. "Grandchild" and the terms defined in subsections 7 8 and 9 10 include only a person who, at the time of the death of the deceased employee, is under eighteen years of age, or if over that age, is incapable of self-support.
- 22 21. "Hazardous employment" means any employment in which one or more employees are employed regularly in the same business or in or about the establishment except:
- a. Agricultural or domestic service.
  - b. Any employment of a common carrier by railroad.
  - c. Any employment for the transportation of property or persons by nonresidents, where, in such transportation, the highways are not traveled more than seven miles [11.27 kilometers] and return over the same route within the state of North Dakota.
  - d. All members of the clergy and employees of religious organizations engaged in the operation, maintenance, and conduct of the place of worship.
- 23 22. "Health care provider" means a doctor or any recognized practitioner providing skilled services pursuant to the prescription of, or under the supervision or direction of, a doctor.
23. "Organization" means workforce safety & insurance, or the director, or any department heads, assistants, or employees of workforce safety & insurance designated by the director, to act within the course and scope of their employment in administering the policies, powers, and duties of this title.
- 24 "Parent" includes a stepparent and a parent by adoption.
25. "Permanent impairment" means the loss of or loss of use of a member of the body existing after the date of maximum medical improvement and includes disfigurement resulting from an injury.
26. "Permanent total disability" means an employee is determined incapable of rehabilitation of earnings capacity as determined by the:

- a. Nature of injury.
  - b. Degree of physical impairment.
  - c. Education.
  - d. Work history.
  - e. Vocational rehabilitation potential.
27. "Rehabilitation services" means nonmedical services reasonably necessary to restore a disabled employee to substantial gainful employment as defined by section 65-05.1-01 as near as possible. The term may include vocational evaluation, counseling, education, workplace modification, and vocational retraining including on-the-job training or training for alternative employment with the same employer, and job placement assistance.
28. "Seasonal employment" includes an occupation that has periods of forty-five consecutive days of not receiving wages.
29. "Spouse" includes only the decedent's husband or wife who was living with the decedent or was dependent upon the decedent for support at the time of injury.
30. "Utilization review" means the initial and continuing evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on medically accepted standards. The evaluation must be accomplished by means of a system that identifies the utilization of medical services, based on medically accepted standards, and which refers instances of possible inappropriate utilization to the bureau to obtain opinions and recommendations of expert medical consultants to review individual cases for which administrative action may be deemed necessary.
31. "Wages" means an employee's remuneration from all employment reportable to the internal revenue service as earned income for federal income tax purposes. For purposes of chapter 65-04, "wages" may not include dismissal or severance pay.

**SECTION 2. AMENDMENT.** Section 65-01-17 of the 2001 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**65-01-17. Agricultural employment exemption - Custom agricultural operations.** For purposes of the agricultural service exception to hazardous employment under subsection 22 21 of section 65-01-02, an agricultural employer that engages in a custom agricultural operation, which is the planting, care, or harvesting of grain or field crops on a contract-for-hire basis, exclusive of hauling by special contractor, retains the exemption 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.

**SECTION 3. AMENDMENT.** Section 65-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-01.1. Workers compensation bureau Workforce safety & Insurance.** The North Dakota legislative council is hereby authorized to delete, where appropriate, "workmen's the workers compensation bureau", "the North Dakota workers compensation bureau" or any derivatives of those terms, which, when used in context indicates an intention to refer to those terms, wherever they appear in the North Dakota Century Code or in the supplements thereto and to insert in lieu of each deletion "workforce safety & insurance bureau". Such changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. It is the intent of the legislative assembly that the workers compensation bureau workforce safety & insurance be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the workmen's workers

compensation bureau. The North Dakota legislative council is hereby authorized to replace "bureau" wherever it appears in the North Dakota Century Code or in the supplements to the North Dakota Century Code, with "organization". These changes are to be made when any volume or supplement is being reprinted.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Legislative Initiative #2

Fifty-eighth  
Legislative Assembly of  
North Dakota

DRAFT

Introduced by

A BILL for an Act to amend and reenact sections 65-02-03.1, 65-02-23, 65-02-30, and 65-03-04 of the North Dakota Century Code, relating to the term of office and membership of the North Dakota workers compensation bureau board of directors and biennial performance evaluations of the functions and operations of the workers compensation bureau; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 65-02-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-03.1 Workers compensation board of directors – Appointment-  
Vacancies.**

1. ~~Beginning September 1, 1997, the initial board of directors shall consist of the members of the state advisory council on December 15, 1996. The initial board shall submit to the governor a list of three names of potential candidates for each of the employer member positions and the medical association position. From each list the governor shall select an individual to fill the member position of the subsequent board. An organization that is statewide in scope and which through its affiliates embraces a cross section and a majority of organized labor in this state shall submit to the governor a list of three names of potential candidates for one of the three employee positions. The governor shall select an individual to fill this organized labor employee member position, and the governor shall appoint two individuals to fill the remaining two employee positions. The subsequent board is effective January 1, 1998.~~
2. 1. After December 31, 1997 the effective date of this Act, the board consists of ten eleven members. The appointment and replacement of the members must ensure that:
  - a. Six board members represent employers in this state that maintain active accounts with the bureau, at least one of which must be a participant in the risk management program, at least two of which

must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be an employer with an annual premium of less than ten thousand dollars.

- b. Three members represent employees; at least one member must have received workers' compensation benefits; and at least one member must represent organized labor.
- c. One ~~nonvoting~~ member is a member of the North Dakota medical association.
- d. One member is a member at large who must be a resident of this state and at least twenty-one years of age.

3. 2. Board members shall serve ~~six-year~~ four-year terms, except of the initial board members, an employee representative and two employer representatives shall serve only through December 31, 1998; and employee representative and two employer representatives shall serve only through December 31, 2000; and an employee representative, two employer representatives, and the medical association representative shall serve only through December 31, 2002, as determined by lot to initiate a cycle that results in three members' terms expiring on December thirty-first of each even-numbered year, and beginning the initial term of office of the member at large to be appointed upon the effective date of this Act expires on December 31, 2006, and the term of office of the medical association member whose term of office became effective January 1, 2003, expires on December 31, 2006. The governor shall make the necessary appointments to ensure the term of office of members begins on January first of each odd-numbered year. Board members may not serve more than ~~two~~ three consecutive terms. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the replacement member for a departing employer representative or medical association representative from a list of three candidates submitted by the board. The governor shall select the replacement member for the departing organized labor employee representative from a list of three names of potential candidates submitted by an organization that is state-wide in scope and which through its affiliates embraces a cross section and a majority of organized labor in this state, and the The governor shall select the replacement member for a departing nonorganized labor employee representative. The governor shall appoint the replacement member for the member at large from a list of three candidates submitted by the board. Vacancies in the membership of the

board must be filled for the unexpired term by appointment by the governor as provided in this subsection.

**SECTION 2. AMENDMENT.** Section 65-02-23 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-23. Workers' compensation fraud unit – Continuing appropriation.** The bureau shall establish a workers' compensation fraud unit. The bureau may employ investigators and licensed attorneys, or contract with a private investigator whenever feasible or cost effective, to investigate and review any alleged case of fraud against the fund by employers, injured workers, or providers of medical or other services, including activities described under section 65-04-33 or 65-05-33. The unit shall refer cases of fraud to the bureau for the imposition of administrative penalties and may refer them to the appropriate authorities for prosecution. Money in the workers' compensation fund is appropriated on a continuing basis for payment of costs associated with identifying, preventing, and investigating employer or provider fraud. ~~The biennial independent performance evaluation of the bureau must evaluate and report on the effectiveness of these expenditures.~~ The bureau may establish a process to charge investigative costs against the rate class of an employer being investigated and to credit any recoveries to that rate class.

**SECTION 3. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is amended and reenacted as follows.

**65-02-30. Independent performance evaluation – Bureau development of performance measurements – Continuing appropriation.** Biennially, the director shall request the state auditor to select a firm with extensive expertise in workers' compensation practices and standards to complete a performance evaluation of the functions and operations of the bureau during that biennium. This may not be construed to require the firm to be a certified public accounting firm. The evaluation must evaluate the departments of the bureau as determined necessary by the state auditor in consultation with the board to determine whether the bureau is providing quality service in an efficient and cost-effective manner. The firm also shall conduct a performance evaluation of the board to determine whether the board is operating within section 65-02-03.3 and within the board's bylaws. The firm's report must contain recommendations for departmental improvement or an explanation of why no recommendations are being made. The director, the chairman of the board, and a representative of the firm shall present the evaluation report and any action taken to the legislative council's legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative session following the performance evaluation. The director shall provide a copy of the performance evaluation report to the state auditor. The bureau shall develop and maintain comprehensive, objective performance measurements. These measurements must be evaluated as part of the independent performance evaluation performed under this section. Money in

the workers' compensation fund is appropriated on a continuing basis for the payment of the expense of conducting the performance evaluation.

**SECTION 4. AMENDMENT.** Section 65-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**65-03-04. Safety programs.** The bureau shall create and operate work safety and loss prevention programs to protect the health of covered employees and the financial integrity of the fund, including programs promoting safety practices by employers and employees through education, training, consultation, grants, or incentives. ~~The biennial independent performance evaluation of the bureau must evaluate and report on the effectiveness of these programs.~~

**SECTION 5. APPLICATION.** The reduction in the term of office from six years to four years in Section 2 of this Act does not affect the term of office of a member appointed prior to the effective date of this Act, except as provided in Section 2.

### Legislative Initiative #3

Fifty-eighth  
Legislative Assembly  
Of North Dakota

Introduced by

A BILL for an Act to amend and reenact section 65-01-09, section 65-04-03.1, section 65-04-04, section 65-04-15, subsection 1 of section 65-04-26.1, subsections 1 and 2 of section 65-04-32, subsection 3 of section 65-04-33, section 65-05-07.2, section 65-05-28.1, section 65-06-01, and section 65-06-02 of the North Dakota Century Code, relating to the workers compensation bureau's subrogation interests and participation in third-party actions, removing the expiration date for the state entitles account, employer certificates of coverage, release of information from employer files, personal liability for failure to pay premiums or file premium reports, notices of decision issued by workers compensation bureau, clarification of penalty structure for failure to secure workers compensation coverage, employer medical assessments, eligibility of employer to select preferred providers to render medical treatment, and volunteer disaster emergency trainees; to repeal section 65-04-19.2 and Chapter 65-14 of the North Dakota Century Code, relating to state agency participation in the workers compensation risk management program and the employee information program on hazardous substances; and to declare an emergency.

**BE IN ENACTED BY THE NORTH DAKOTA LEGISLATIVE ASSEMBLY:**

**SECTION 1. AMENDMENT.** Section 65-01-09 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-09. Injury through negligence of third person - Option of employee**  
— **Fund subrogated when claim filed.** When an injury or death for which compensation is payable under provisions of this title shall have been sustained under circumstances creating in some person other than the fund a legal liability to pay damages in respect thereto, the injured employee, or the employee's dependents may claim compensation under this title and proceed at law to recover damages against such other person. The fund is subrogated to the rights of the injured employee or the employee's dependents to the extent of fifty percent of the damages recovered up to a maximum of the total amount it has paid or would otherwise pay in the future in compensation and benefits for the injured employee. The bureau's subrogation interest may not be reduced by settlement, compromise, or judgment. The action against such other person may be brought by the injured employee, or the employee's dependents in the event of the employee's death. Such action shall be brought in the injured employee's



or in the employee's dependents' own right and name and as trustee for the bureau for the subrogation interest of the bureau. However, if the director chooses not to participate in ~~an~~ a health care malpractice action, the fund has no subrogation interest and no obligation to pay fees or costs under this section. If the injured employee or the employee's dependents do not institute suit within sixty days after date of injury, the bureau may bring the action in its own name and as trustee for the injured employee or the employee's dependents and retain as its subrogation interest the full amount it has paid or would otherwise pay in the future in compensation and benefits to the injured employee or the employee's dependents. Within sixty days after both the injured employee and the bureau have declined to commence an action against a third person as provided above, the employer may bring the action in the employer's own name or in the name of the employee, or both, and in trust for the bureau and for the employee. The party bringing the action may determine if the trial jury should be informed of the trust relationship. If the action is brought by the injured employee or the employee's dependents, or the employer as provided above, the bureau shall pay fifty percent of the costs of the action, exclusive of attorney fee, when such costs are incurred. If there is no recovery of damages in the action, this shall be a cost of the bureau to be paid from the bureau general fund. When there is recovery of damages in the action, the costs of the action, exclusive of attorney's fees, must be prorated and adjusted on the percentage of the total subrogation interest of the bureau recovered to the total recovery in the action. The bureau shall pay attorney fees to the injured employee's attorney from the bureau general fund as follows:

1. Twenty percent of the subrogation interest recovered for the bureau when legal action is not commenced.
2. Twenty-five percent of the subrogation interest recovered for the bureau when action is commenced and settled before judgment.
3. Thirty-three and one-third percent of the subrogation interest recovered for the bureau when recovered through judgment.

The above provisions as to costs of the action and attorney fees is effective only when the injured employee advises the bureau in writing the name and address of the employee's attorney, and that the employee has employed such attorney for the purpose of collecting damages or of bringing legal action for recovery of damages. If a claimant fails to pay the bureau's subrogation interest within thirty days of receipt of a recovery in a third party action, the bureau's subrogation interest is the full amount of the damages recovered, up to a maximum of the total amount it has paid or would otherwise pay in the future in compensation and benefits to the injured employee or the employee's dependents, and no costs or attorney fees will be paid from the bureau's subrogation interest.

**SECTION 2. AMENDMENT.** Section 65-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-03.1. ~~(Effective through June 30, 2003)~~ State entitles account – Continuing appropriation - Report to budget section.**

1. The bureau shall establish a single workers' compensation account for state entities covered by chapter 32-12.2. The bureau shall use the combined payroll, premium, and loss history of selected agencies to determine future experience rates, dividends, assessments, and premiums. Classifications and premium rates must be based on the hazards and risks of the different occupations covered by this account. The payroll reporting period for this account is for a fiscal year of July first through June thirtieth. The office of management and budget shall furnish combined payroll information to the bureau in a format prescribed by the bureau.
2. Workers' compensation premiums from state entities covered by chapter 32-12.2 must be deposited in the risk management workers' compensation fund. The state investment board shall invest this fund in accordance with chapter 21-10. Funds received as contributions from state entities, all other payments deposited in this fund, and interest and income received on investments are appropriated on a continuing basis for the purposes of this fund. The purposes of this fund are to pay workers' compensation premiums for state agencies and to pay workers' compensation claims costs not covered by the deductible contract. The risk management division of the office of management and budget shall administer this fund. Section 54-44.1-11 does not apply to this fund.
3. A state entity covered by chapter 32-12.2 shall participate in the risk management workers' compensation program unless exempted by the director of the office of management and budget.
4. The risk management division of the office of management and budget shall administer the account's internal workers' compensation return-to-work program. Every state entity is required to participate in the return-to-work program. The program may include assigning employees to agencies other than the agency for which the employee worked on the date of the injury.
5. The office of management and budget may adopt rules to administer the risk management workers' compensation program. The workers compensation bureau and the risk management division of the office of management and budget periodically shall report to the budget section of the legislative council on the success of this program.

**SECTION 3. AMENDMENT.** Section 65-04-04 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-04. Employers obligated to pay premiums-Premium and certificates to be mailed.** Each employer subject to this title shall pay into the fund annually the amount of premiums determined and fixed by the bureau for the employment or occupation of the employer. The amount must be determined

by the classifications, rules, and rates made and published by the bureau and must be based on a proportion of the annual expenditure of money by the employer for the service of persons subject to the provisions of this title. The bureau shall mail to the employer a certificate specifying that the payment has been made. The certificate, attested by the seal of the bureau, is prima facie evidence of the payment of the premium. Notwithstanding the provisions of 65-04-15, the certificate may reflect the employer has paid the minimum premium and has estimated no wages for the period indicated on the certificate. If an employer defaults on premium payments after a certificate has been issued, the bureau may revoke that employer's certificate. The bureau shall provide that premiums to be paid by school districts, townships, and all public corporations or agencies, except municipal corporations, fall due at the end of the fiscal year of that entity, and that premiums to be paid by all municipal corporations fall due at the end of the calendar year, and may make provisions so that premiums of other employers fall due on different or specified dates. For the purpose of effectuating different or specified due dates the bureau may carry new or current risks for a period of less than one year and not to exceed eighteen months, either by request of the employer or action of the bureau. An employer subject to this chapter shall display in a conspicuous manner at the workplace and in a sufficient number of places to reasonably inform employees of the fact, a certificate of premium payment showing compliance with this chapter and the toll-free telephone number used to report unsafe working conditions and actual or suspected workers' compensation fraud. Any employer subject to this chapter is liable to pay a civil penalty of two hundred fifty dollars for failure to display the notice of compliance and the toll-free telephone number as required by this section.

**SECTION 4. AMENDMENT.** Section 65-04-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-15. Information in employer's files reports confidential - Penalty if employee of bureau divulges information.** The information contained in an employer's report file is for the exclusive use and information of the bureau or its agents in the discharge of its their official duties and is not open to the public nor usable in any court in any action or proceeding pending therein unless the bureau is a party thereto. ~~The information contained in an employer's report may be provided to a federal or state law enforcement agency pursuant to a lawful order of a court upon a showing of necessity and prior notice to the bureau of an application for the order.~~ The information contained in the report file, however, may be tabulated and published by the bureau in statistical form for the use and information of the state departments and of the public. Upon request, the bureau shall disclose the rate classification of an employer to the requester; however, the bureau may not disclose any information that would reveal the amount of payroll upon which that employer's premium is being paid or the amount of premium the employer is paying. The bureau may disclose whether an employer's file is active, cancelled, closed, pending or delinquent. The

Information in the employer's file may not be released in aggregate form, except to those persons contracting with the bureau for exchange of information pertaining to the administration of this title or except upon written authorization by the employer for a specified purpose. Anyone who is convicted under section 12.1-13-01 is disqualified from holding any office or employment with the bureau. The bureau may, upon request of the state tax commissioner or the secretary of state, furnish to them a list or lists of employers showing only the names, addresses, and bureau file identification numbers of such employers as those files relate to this chapter; provided, that any such list so furnished must be used by the tax commissioner or the secretary of state only for the purpose of administering their duties. The bureau may provide ~~the commissioner of labor or job service North Dakota~~ with any state or federal agency information obtained pursuant to the administration of this title. Any information so provided must be used only for the purpose of administering the duties of ~~the commissioner of labor or job service North Dakota~~ that state or federal agency. Whenever the bureau obtains information on activities of a contractor doing business in this state of which officials of the secretary of state, job service North Dakota, or tax commissioner may be unaware and that may be relevant to the duties of those officials, the bureau shall provide any relevant information to those officials for the purpose of administering their duties. The bureau may provide any state agency or a private entity with a list of names and addresses of employers for the purpose of jointly publishing or distributing publications or other information pursuant to section 54-06-04.3. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 54-06-04.3.

**SECTION 5. AMENDMENT.** Subsection 1 of section 65-04-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-26.1. Corporate officer personal liability.**

1. An officer or director of a corporation, or manager or governor of a limited liability company, or partner of a limited liability partnership, or employee of a corporation or limited liability company having twenty percent stock ownership who has control of or supervision over the filing of and responsibility for filing premium reports or making payment of premiums or reimbursements under this title and who fails to file the reports or to make payments as required, is personally liable for premiums under this chapter and reimbursement under section 65-05-07.2, including interest, penalties, and costs if the corporation or limited liability company does not pay to the bureau those amounts for which the corporation or limited liability company is liable.

**SECTION 6. AMENDMENT.** Subsections 1 and 2 of Section 65-04-32 of the North Dakota Century Code are amended and reenacted as follows:

**65-04-32. Decisions by bureau - Disputed decisions.** Notwithstanding any provisions to the contrary in chapter 28-32, the following procedures apply when the bureau issues a decision under this chapter or section 65-05-07.2:

1. The bureau may issue a notice of decision based on an informal internal review of the record and shall serve notice of the decision on the parties by regular mail. The bureau shall include with the decision a notice of the employer's right to reconsideration.
2. An employer has thirty days from the date of service to file a written petition for reconsideration. The request must state specifically the alleged errors in the decision and the relief sought. The request may be accompanied by additional evidence not previously submitted to the bureau. The bureau shall reconsider the matter by informal internal review of the information of record. Absent a timely and sufficient request for reconsideration, the ~~administrative order~~ notice of decision is final and may not be reheard or appealed.

**SECTION 7. AMENDMENT.** Subsection 3 of section 65-04-33 of the North Dakota Century Code is amended and reenacted as follows:

3. An employer who is uninsured is liable for any premiums plus penalties and interest due on those premiums, plus a penalty of twenty-five percent of all premiums due during the most recent year of noncompliance. An additional five percent penalty is due for each year of noncompliance before the most recent year, ~~not to exceed six years or fifty percent~~, beginning on the date the bureau became aware of the employer's uninsured status, resulting in the penalty for the second most recent year being thirty percent, for the third most recent year being thirty-five percent, for the fourth most recent year being forty percent, for the fifth most recent year being forty-five percent, and for the sixth most recent year being fifty percent. The bureau may not assess a penalty for more than six years of past noncompliance. The bureau may assess additional penalties, from the date the bureau became aware of the employer's uninsured status continuing until the effective date of coverage, equal to twenty-five percent of the premium due for that period. The penalties for employers are in addition to any other penalties provided by law. The bureau may reduce these penalties. However, the amount due from an employer may not be less than the actual cost and reserves of any claim attributable to the employer during the time the employer was uninsured. An employer may not appeal a bureau decision not to reduce a penalty under this subsection.

**SECTION 8. AMENDMENT.** Section 65-05-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-07.2. Payment to bureau for certain claims.** The employer shall reimburse the bureau for all medical expenses related to a compensable injury to an employee if the expenses are not more than two hundred fifty dollars and shall reimburse the bureau for the first two hundred fifty dollars of medical expenses when the expenses are more than two hundred fifty dollars. If an employee's compensable injury is determined through a civil action to have been sustained through the fault or negligence of a third person, or if a settlement has been entered between the employee and a third person through which the third person agrees to compensate the employee for the injury, the bureau, upon receipt of its subrogation interest, shall credit the account of the employer to the extent of the payment made by the employer to the bureau under this section. Upon the bureau's determination that the claim is compensable, the bureau shall pay the medical expenses associated with the claim and notify the employer of payments to be made by the employer under this section. If the employer does not pay the bureau within ~~ninety days~~ thirty days of notice by the bureau, the bureau may impose a penalty on that employer. The penalty may not exceed one hundred twenty-five percent of the payment owed by the employer. The bureau shall collect the penalty in a civil action against the employer and deposit the money in the fund. An employer may not directly or indirectly charge an injured employee for any payment the employer makes on a claim. When the cost of an injured employee's medical treatment exceeds two hundred fifty dollars, the bureau shall pay all further medical expenses pursuant to this title. This section is effective for all compensable injuries that occur after July 31, 1995. Compensable injuries paid under sections 65-06.2-04 through 65-06.2-08 are not subject to this section.

**SECTION 9. AMENDMENT.** Section 65-05-28.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-28.1. Employer to select preferred provider.** Notwithstanding section 65-05-28, an employer subject to this title who maintains ~~a an approved~~ risk management program pursuant to ~~section 65-04-10.1~~ approved by the bureau may select a preferred provider to render medical treatment to employees who sustain compensable injuries. "Preferred provider" means a designated provider or group of providers of medical services, including consultations or referral by the provider or providers.

**SECTION 10. AMENDMENT.** Section 65-06-01 of the North Dakota Century Code is amended and reenacted as follows:

**65-06-01. Volunteer fireman firefighter, volunteer disaster emergency trainees trainee, in training defined.** The term "volunteer fireman firefighter" means any active member of an organized volunteer fire department of this state and any other person performing services as a volunteer fireman firefighter for a municipality at the request of the chief or other person in command of the fire department of ~~such that~~ that municipality or of any other officer of ~~such that~~ that

municipality having authority to demand such service as a firefighter. Firemen Firefighters who are paid a regular wage or stipend by the municipality ~~as such~~ for serving as a firefighter, or whose entire time is devoted to ~~such services~~ service as a firefighter for the municipality, for the purpose of this chapter, ~~shall~~ are not be deemed volunteer firemen firefighters.

The term "volunteer disaster emergency trainee" means any person serving without remuneration who is actively engaged in training to qualify as a disaster emergency worker in the event of an enemy attack on this country, and who is registered with the disaster emergency organization of a municipality, which has been officially recognized by the director of the state division of emergency management.

The term "in training" ~~shall be limited to and~~ means only those periods of time, ~~prior to an enemy attack on this country~~, during which ~~such a~~ volunteer disaster emergency trainee is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a disaster emergency worker in the event of an enemy attack on this country.

The term "municipality" when used in reference to volunteer disaster emergency trainees means the state or district thereof, cities, counties, municipalities, districts, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer ~~firemen~~ firefighters.

**SECTION 11. AMENDMENT.** Section 65-06-02 of the North Dakota Century Code is amended and reenacted as follows:

**65-06-02. Volunteer firemen firefighters and volunteer disaster emergency trainees declared employees - Covered by workers' compensation - Termination.** Volunteer ~~firemen~~ firefighters and volunteer disaster emergency trainees are employees of the municipalities which they serve and are entitled to the same protection and rights under the provisions of this title as are full-time paid employees of such those municipalities, ~~except, however, that the protection and rights granted to volunteer disaster emergency trainees by this section shall terminate and cease in the event of an enemy attack on this country, except as to rights to benefits that shall have vested prior to the time of such attack.~~

**SECTION 12. REPEAL.** Section 65-04-19.2 and Chapter 65-14 of the North Dakota Century Code are repealed.

**SECTION 13. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure.



Legislative Initiative #4

Fifty-eighth  
Legislative Assembly  
Of North Dakota

Introduced by

A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota Century Code relating to retaliation by an employer against an employee for seeking workers' compensation benefits; to amend and reenact subdivision b of subsection 5 of section 65-01-02, subsection 28 of section 65-01-02, section 65-02-11, section 65-02-20, subsection 5 of section 65-05-07, section 65-05-10, subsection 1 of section 65-05-17, section 65-05-21, section 65-05-22, section 65-05-25, and section 65-05-36 of the North Dakota Century Code, relating to the calculation of the average weekly wage of self-employed employers, the definition of seasonal employment, subpoenas issued by the workers compensation bureau, dispute resolution of managed care decisions, modifications to real estate for catastrophically injured workers, partial disability benefits, workers compensation death benefits, structured settlements, and the preferred worker program; to repeal section 62-02-15 and section 65-05-24 of the North Dakota Century Code, relating to binding arbitration in workers compensation disputes and workers compensation death benefits; to provide a penalty; and to provide for applications.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 65-05 of the North Dakota Century Code is created and enacted as follows:

**Retaliation by employer prohibited-Action for damages-Penalty.** An employer who willfully discharges or willfully threatens to discharge an employee for seeking or making known the intention to seek workers' compensation benefits is liable in a civil action for damages incurred by the employee, including reasonable attorneys' fees. Damages awarded under this section may not be offset by any workers' compensation benefits to which the employee is entitled. A willful violation of this section is a class A misdemeanor.

**SECTION 2. AMENDMENT.** Subdivision b of subsection 5 of Section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

- b. The "average weekly wage" of a self-employed ~~employee~~ employer is determined by the following formula: ~~one-fiftieth~~ one fifty-second of the net ~~profits based on earnings reported~~ the preceding tax year or preceding fifty-two weeks whichever is higher if accurate, reliable, and complete records for those fifty-two weeks are readily available, ~~plus depreciation,~~



Legislative Initiative #4

~~meal and travel expenses, and any expenses chargeable to use of personal residence as allowed under the federal tax laws.~~

**SECTION 3. AMENDMENT.** Subsection 28 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

28. "Seasonal employment" includes an ~~occupation that has periods of forty-five consecutive days of not receiving wages~~ occupations which are not permanent or which do not customarily operate throughout the entire year. Seasonal employment is determined by what is customary with respect to the employer at the time of injury.

**SECTION 4. AMENDMENT.** Section 65-02-11 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-11. Process and procedure - Investigations - Examination of witnesses - Costs - Penalty.** Except as otherwise provided by this title, process and procedure under this title is governed by chapter 28-32. The bureau may make investigation as in its judgment is best calculated to ascertain the substantial rights of all the parties. Any member of the bureau, and any person specifically designated by the bureau may examine witnesses and records, with or without subpoena, examine, investigate, copy, photograph, and take samples at any pertinent location or facility, administer oaths to witnesses, require the attendance of witnesses without fee whenever the testimony is taken at the home, office, or place of work of those witnesses, and generally to do anything necessary to facilitate or promote the efficient administration of this title. The bureau may issue a subpoena to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and any other records deemed necessary by the bureau. Subpoenas may be enforced by applying to any judge of the district court for an order requiring the attendance of a witness, the production of all documents and objects described in the subpoena, or otherwise enforcing an order. Failure to comply with the order of the district court is contempt as provided in chapter 27-10. The bureau shall pay the costs of any medical examination, scientific investigation, medical or expert witness appearance or report, requested or approved by the bureau, relating to a claim for benefits, from the bureau general fund.

**SECTION 5. AMENDMENT.** Section 65-02-20 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-20. Bureau to establish managed care program.** The bureau shall establish a managed care program, including utilization review and bill review, to effect the best medical solution for an injured employee in a cost-effective manner upon a finding by the bureau that the employee suffered a compensable injury. The program shall operate according to guidelines adopted by the bureau and shall provide for medical management of claims within the bounds of workers' compensation law. Information compiled and analysis performed pursuant to a managed care program which relates to patterns of treatment, cost, or outcomes by healthcare providers are

#### Legislative Initiative #4

confidential and are not open to public inspection to the extent the information and analysis identify a specific health care provider, except to the specific health care provider, bureau employees, or persons rendering assistance to the bureau in the administration of this title. If an employee, employer, or medical provider disputes a managed care decision, the employee, employer, or medical provider shall request binding dispute resolution on the decision. The bureau shall make rules providing for the procedures for dispute resolution. Dispute resolution under this section is not subject to chapter 28-32 or section 65-01-16 or 65-02-45. A dispute resolution decision under this section requested by a medical provider concerning payment for medical treatment already provided or a request for diagnostic tests or treatment is not reviewable by any court. A dispute resolution decision under this section requested by an employee is reviewable by a court only if medical treatment has been denied to the employee. A dispute resolution decision under this section requested by an employer is reviewable by a court only if medical treatment is awarded to the employee. The dispute resolution decision may be reversed only if the court finds that there has been an abuse of discretion in the dispute resolution process. Any person providing binding dispute resolution services under this section is exempt from civil liability relating to the binding dispute resolution process and decision.

**SECTION 6. AMENDMENT.** Subsection 5 of section 65-05-07 of the North Dakota Century Code is amended and reenacted as follows:

5. The bureau may not pay more than ~~twenty~~ fifty thousand dollars to provide permanent additions, remodeling, or adaptations to real estate it determines necessary for a worker who sustains a catastrophic injury as defined in chapter 65-05.1. The ~~twenty~~ fifty thousand dollar limit is for the life of the injured employee, regardless of any subsequent claim. This subsection does not allow the bureau to purchase any real estate or motor vehicles.

**SECTION 7. AMENDMENT.** Section 65-05-10 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-10. Partial disability ---- Weekly benefit.** If the injury causes temporary partial disability resulting in decrease of earning capacity, the disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly wages before the injury and the employee's wage earning capacity after the injury in the same or another employment. ~~However, the partial Partial disability benefits may not exceed benefit rates as defined in section 65-05-09~~ are subject to a maximum of one hundred ten percent of the average weekly wage in the state. The combined partial disability benefits, dependency allowance, and post-injury wage earning capacity may not exceed the pre-injury weekly wage of the employee after deductions for social security and federal income tax.

**SECTION 8. AMENDMENT.** Section 65-05-17 of the North Dakota Century Code is amended and reenacted as follows:

Legislative Initiative #4

**65-05-17. Weekly compensation allowances for death claims.** If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified:

1. To the decedent's spouse or to the guardian of the children of the decedent, an amount equal to the benefit rate for total disability under section 65-05-09. All recipients of benefits under this subsection are eligible for benefits at the rate provided in this section, regardless of the date of death of the deceased employee. These benefits continue until the death or remarriage of the decedent's spouse; or, if the surviving children of the decedent are under the care of a guardian, until those children no longer meet the definition of "child" in this title. If there is more than one guardian for the children who survive the decedent, the bureau shall divide the death benefits equally among the children and shall pay benefits to the children's guardians. Total death benefits, including supplementary benefits, paid on any one claim may not exceed ~~one hundred ninety-seven thousand two hundred fifty thousand~~ one hundred ninety-seven thousand two hundred fifty thousand dollars. ~~All recipients of benefits under this subsection are eligible for benefits at the rate provided in this section, regardless of the date of death of the deceased employee.~~

**SECTION 9. AMENDMENT.** Section 65-05-21 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-21. Marriage settlement to spouse.** If a spouse who receives compensation under the provisions of subsection 1 of section 65-05-17 remarries, there shall be paid to such spouse a lump sum equal to one hundred four weeks' compensation. If, prior to such marriage, such spouse has received a prior lump sum settlement which covers all or any portion of the said one hundred four weeks following such spouse's marriage, the amount of such partial lump sum settlement which covers all or any part of the said one hundred four weeks following such spouse's marriage shall be deducted from such marriage settlement, and the spouse shall receive only the remainder, if any, over and above such deduction. Any judgment annulling such marriage shall not reinstate the right of such spouse to compensation if the action for the annulment is instituted more than six months after marriage. The provisions of this section apply only to remarriages that occur prior to August 1, 2003, regardless of the date of injury or date of death of the decedent.

**SECTION 10. AMENDMENT.** Section 65-05-22 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-22. Adjustment on cessation of compensation to one beneficiary.** Upon the cessation of compensation payable to a beneficiary under the provisions of this chapter, the compensation of the remaining persons entitled to compensation for the unexpired part during which their compensation is payable, shall be that which persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death. ~~This section, however, shall not be construed to increase the compensation of the children of a widow or widower upon remarriage of the widow or widower.~~

Legislative Initiative #4

**SECTION 11. AMENDMENT.** Section 65-05-25 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-25. Lump sum settlement settlements- Granted in discretion of bureau - How computed.**

1. If an employee is determined to be permanently and totally disabled, the bureau may pay the employee a lump sum equal to the present value of all future payments of compensation. The probability of the employee's death before the expiration of the period during which the employee is entitled to compensation must be determined by generally accepted mortality studies. The bureau may not pay the employee a lump sum unless it has first determined that there is clear and convincing evidence that the lump sum payment is in the best interest of the employee. Best interest of the employee may not be deemed to exist because the employee can invest the lump sum in another manner to realize a better yield. The employee must show a specific plan of rehabilitation which will enable the employee to return to work as a productive member of society.
2. The bureau and an employee may compromise to resolve a disputed claim. The contract of settlement made is enforceable by the parties. The contract may provide that the employee shall utilize the funds to engage in certain rehabilitation programs. If the employee breaches the contract, the bureau may require the employee to repay the benefits received under the agreement. In cases in which the extent of disability is disputed and resolved by agreement, the concept of reopening a disability claim due to significant change in medical condition is inapplicable.
3. If death results from an injury under the conditions specified in 65-05-16, the bureau may pay the decedent's spouse or the guardian of the decedent's children a lump sum equal to the present value of all future payments of compensation.
4. Notwithstanding any other provision of law, structured settlements may be used to resolve any dispute or to provide for payment of ongoing future benefits. The bureau may contract with a third-party vendor to provide structured settlement payments.

**SECTION 12. AMENDMENT.** Section 65-05-36 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-36. Preferred worker program – Continuing appropriation.** For purposes of this section, "preferred worker" means a worker who has incurred a compensable injury that resulted in a disability that poses a substantial obstacle to

#### Legislative Initiative #4

employment. The bureau may provide assistance as determined appropriate to preferred workers or employers who employ a preferred worker. In addition, employers who apply for and are approved as a preferred worker employer may not be assessed premiums on a preferred worker's salary for three years from the date of hiring. The bureau may not charge claims costs incurred as a result of an injury sustained by a preferred worker against the preferred worker's employer's account during the first three years after the worker is hired. The bureau shall charge those claims costs to the general fund. The bureau may adopt rules to regulate and manage the preferred worker program authorized by this section. An employer or preferred worker may not appeal a bureau decision not to provide assistance to that employer or preferred worker under this section. Money in the workers' compensation fund is appropriated on a continuing basis to provide the assistance authorized under this section.

**SECTION 13. REPEAL.** Section 65-02-15 and Section 65-05-24 of the North Dakota Century Code are repealed.

**SECTION 14. APPLICATION.** Section 7 of this Act applies to all claims for benefits filed after the effective date of this Act, regardless of the date of injury.

**SECTION 15. APPLICATION.** The increase in the maximum amount of death benefits payable from one hundred ninety-seven thousand dollars to two hundred fifty thousand dollars in Section 8 of this Act applies only to those deaths occurring after the effective date of this Act.

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La Costa Rickford  
Operator's Signature

10/15/03  
Date

Exhibit  
#1

2003 SENATE BILL 2023

Fifty-Eighth Legislative Assembly  
Before the Senate Appropriations Committee  
David Ystebo, Chairman  
North Dakota Workers Compensation Board of Directors  
January 20, 2003

Mr. Chairman, Members of the Committee:

My name is Dave Ystebo, and I am Chairman of the North Dakota Workers Compensation Board of Directors. I have had the opportunity to serve as a board member since 1998. As you may well remember, legislation passed in 1997 created a workers compensation board of directors whose members represent employers, employees, and the medical community.

The current board structure has worked well to provide appropriate oversight to ensure NDWC operates efficiently and effectively. We take our obligation to maintain cost-effective operations and a high level of service very seriously.

The board is actively involved in all aspects of Workers Compensation functions, including the planning, preparation and implementation of the budget. On behalf of the board, I request your favorable consideration of Workers Compensation's appropriation request.

Brent Edison will now provide you with a brief overview of current operations at Workers Compensation and Tammy Dolan will follow with a more detailed review of the appropriation request.

*La Costa Rickford*  
Operator's Signature

10/15/03  
Date

Brent J. Edison  
Executive Director & CEO

**NORTH DAKOTA**  
**Workers Compensation**

*Putting safety to work*

500 East Front Avenue  
Bismarck ND 58504-6685

January 17, 2003

The Honorable Senator Bob Stenehjem  
The Honorable Representative Rick Berg  
State of North Dakota  
600 East Boulevard Avenue  
Bismarck 58505-0360

**HAND DELIVERED**

Dear Senator Stenehjem and Representative Berg:

NDWC is pleased to submit the following response to your letter of January 8, 2003:

***What is the main purpose of your agency?***

The mission of North Dakota Workers Compensation (NDWC) is "to provide quality, comprehensive workers' compensation products and services."

***How do you measure the achievement of your purpose?***

NDWC and its Board of Directors measure achievement through a comprehensive set of quantitative benchmarks. These benchmarks are monitored on an ongoing basis in NDWC's *Quarterly Operating Report*, the most recent version of which is provided with this letter. In addition, NDWC's Board of Directors and staff engage in annual strategic planning sessions, where both short and long term goals are formulated and monitored by the Board of Directors. Finally, NDWC's performance is monitored through the biennial performance evaluations that are conducted by workers compensation industry experts and reported to the State Auditor and the Legislative Assembly.

***What can the legislature do, financial and otherwise, to help you achieve your purpose?***

Past Legislative Assemblies have provided NDWC with much of the framework needed to successfully achieve its purpose. The legislative reforms in the early 1990's, freedom from the State's personnel system, governance by a Board of Directors and a single-line item appropriation have allowed NDWC to be responsive to its constituents. In the last several years the workers' compensation fund has stabilized; direction and oversight from the Board of Directors will help to continue this stability into the future. Personnel and compensation policies have helped to attract and retain high-quality employees. The single-line appropriation has given NDWC the flexibility to allocate dollars as needed in response to changes in the workers' compensation industry or to enhance service to our constituents.

NDWC was awarded a number of additional FTE by the 2001 Legislative Assembly to replace contracted staff with full-time FTE. This resulted in savings of more than \$4 million to the workers' compensation fund each biennium. Giving NDWC the ongoing ability to hire

Local: (701) 328-3800 Toll Free: 1-800-777-5033 Fax: (701) 328-3820  
TDD (for hearing impaired): (701) 328-3786  
Fraud and Safety Hotline: 1-800-243-3331  
[www.ndworkerscomp.com](http://www.ndworkerscomp.com)

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*LaCosta Rickford*  
Operator's Signature

*10/15/03*  
Date

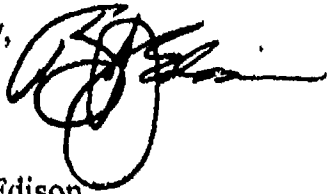
additional staff as employees, within the legislatively authorized budget, would allow NDWC to capitalize on these savings more quickly.

*How can you report (measure) your results so the public can easily understand your purpose and evaluate your effectiveness?*

NDWC publishes a *Biennial Report* and annual financial statements, which report on the status of workers' compensation, its activities and financial standing. The attached *Quarterly Operating Report* is prepared for upper management and the Board of Directors to provide department-by-department information, including results of customer service surveys and all other Board-recommended quantitative benchmarks. *Worklink*, a workers' compensation newsletter, is published quarterly and distributed to every North Dakota employer.

If you have any questions, please feel free to call me at 328-3856.

Sincerely,



Brent J. Edison  
Executive Director and CEO

BJE:mam

Cc: Senate Appropriations Committee (At hearing)  
House Appropriations Committee (At hearing)



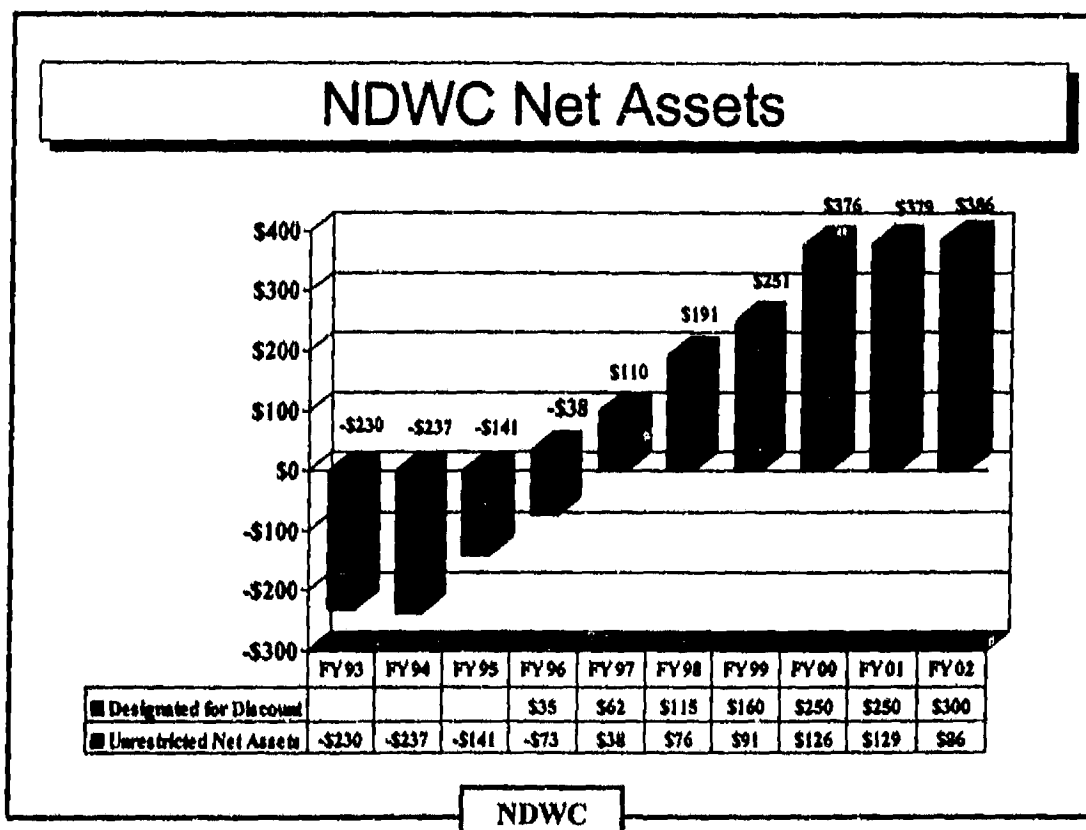
Exhibit  
# 2

SENATE BILL 2023

Fifty-Eighth Legislative Assembly  
Before the Senate Appropriations Committee  
January 20, 2003  
Testimony Regarding Workers Compensation Appropriation

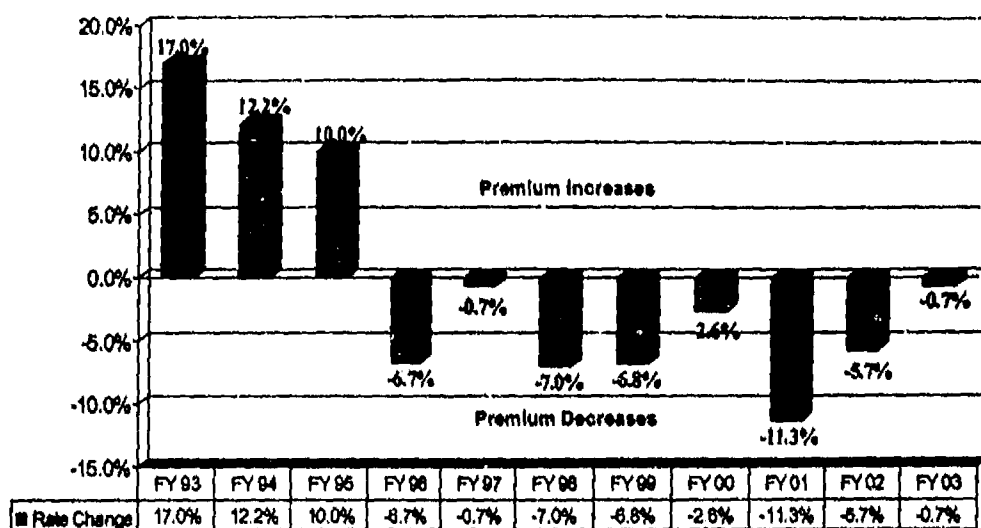
Good Morning Chairman Holmberg and members of the Committee. My name is Brent Edison, and I am the Executive Director and CEO of North Dakota Workers Compensation (NDWC).

With the help of its constituents, the Legislative Assembly, and its Board of Directors, NDWC has made great strides toward solidifying the solvency of the Fund, while at the same time enhancing service to North Dakota's workers, employers, and medical providers. I would like to provide a brief overview of NDWC's key performance indicators at this time.



Identical  
to  
previous  
testimony

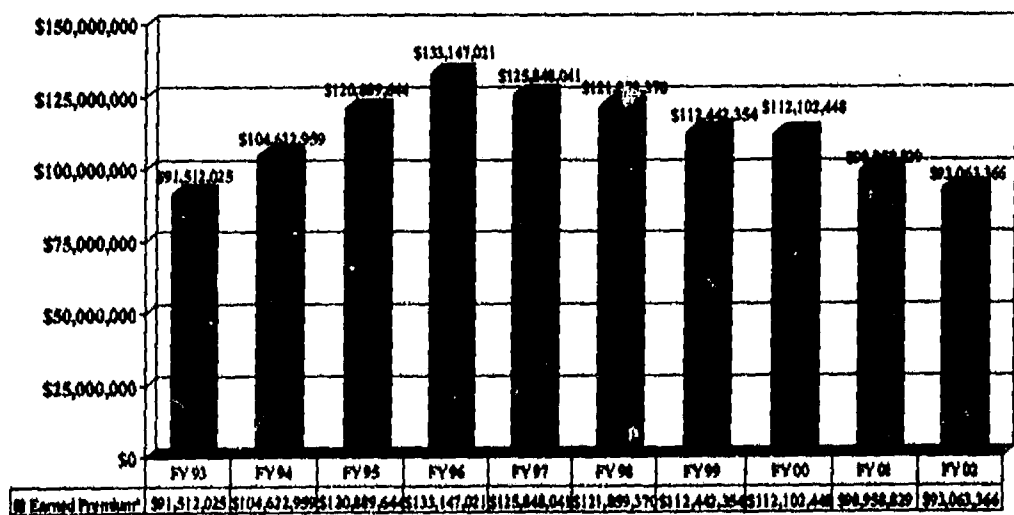
## NDWC Average Premium Change History



~Rate changes are effective July 1 of each fiscal year

NDWC

## Annual Earned Premium



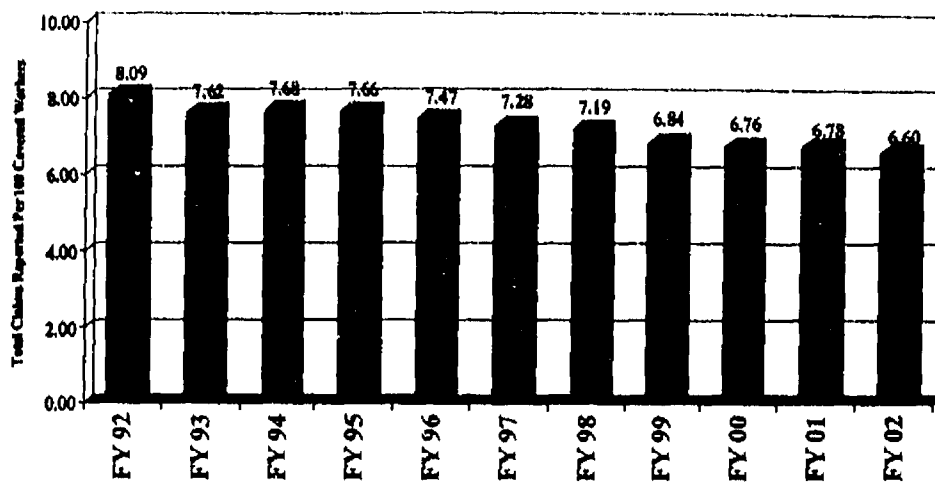
~Earned premium reflected prior to reinsurance costs and safety dividends

NDWC

*LaCosta Rickford*  
Operator's Signature

10/15/03  
Date

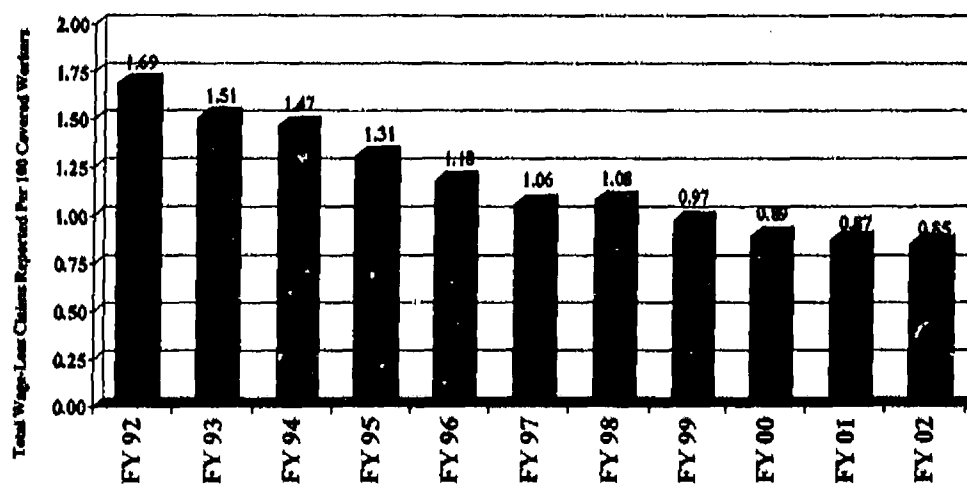
### Claims Reported Per 100 Covered Workers



The Safety Program was introduced in early 1994.  
By December, 2002 there were 2,859 employers (representing over 1/2 of the state's workforce) utilizing an approved safety plan.

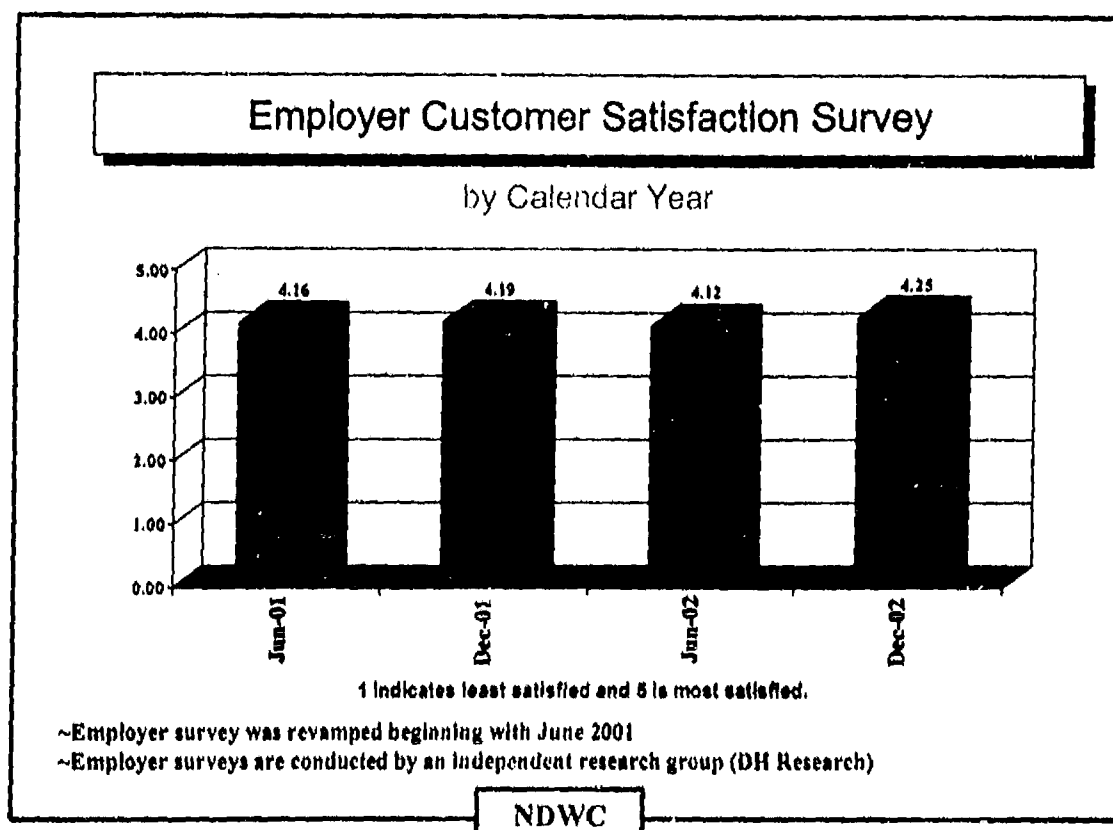
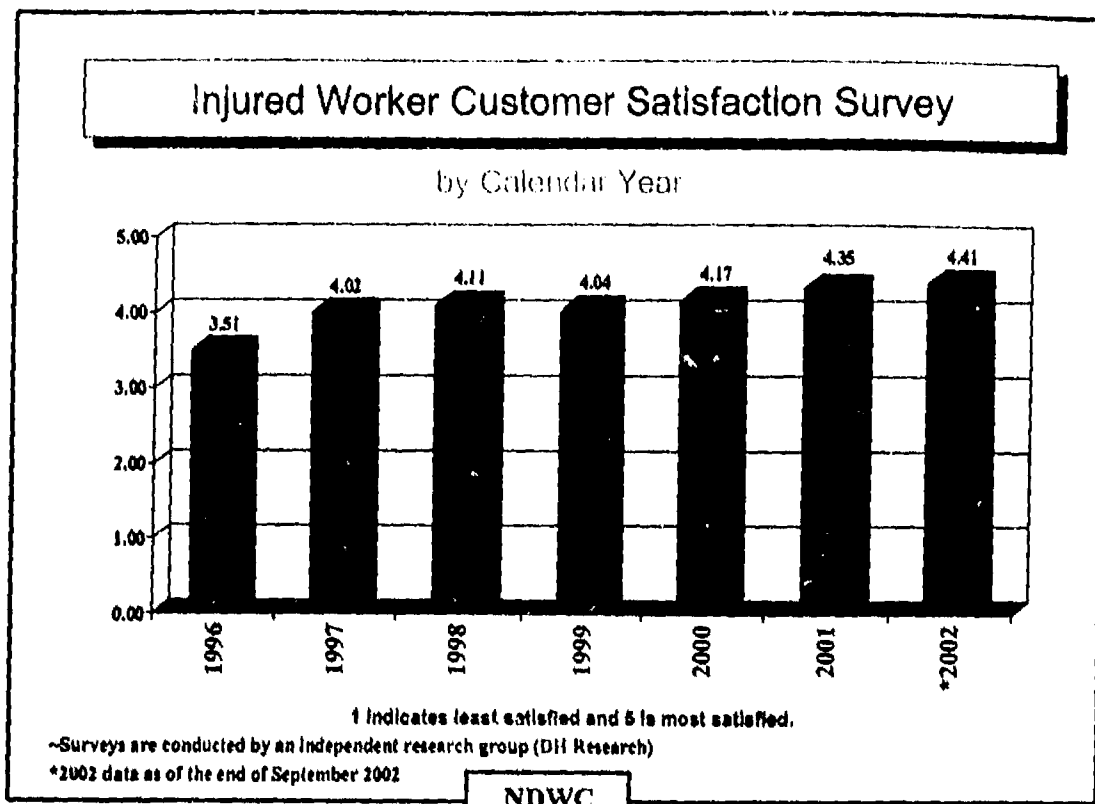
NDWC

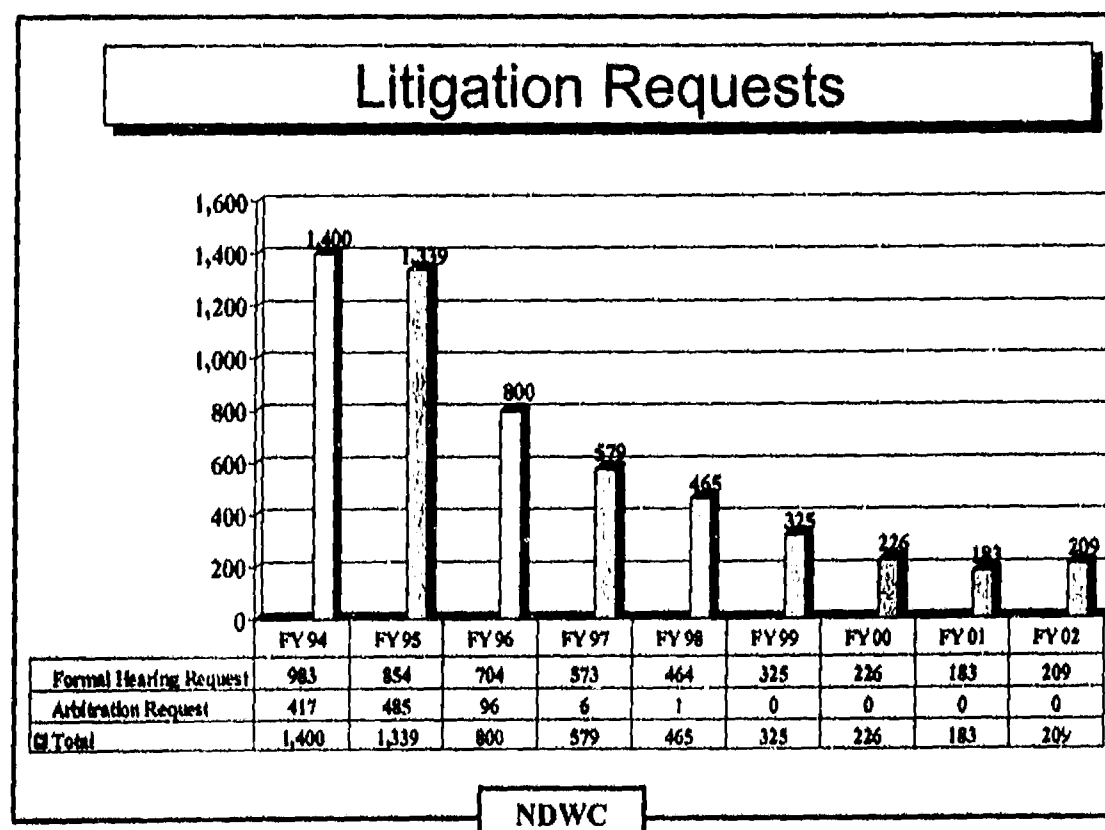
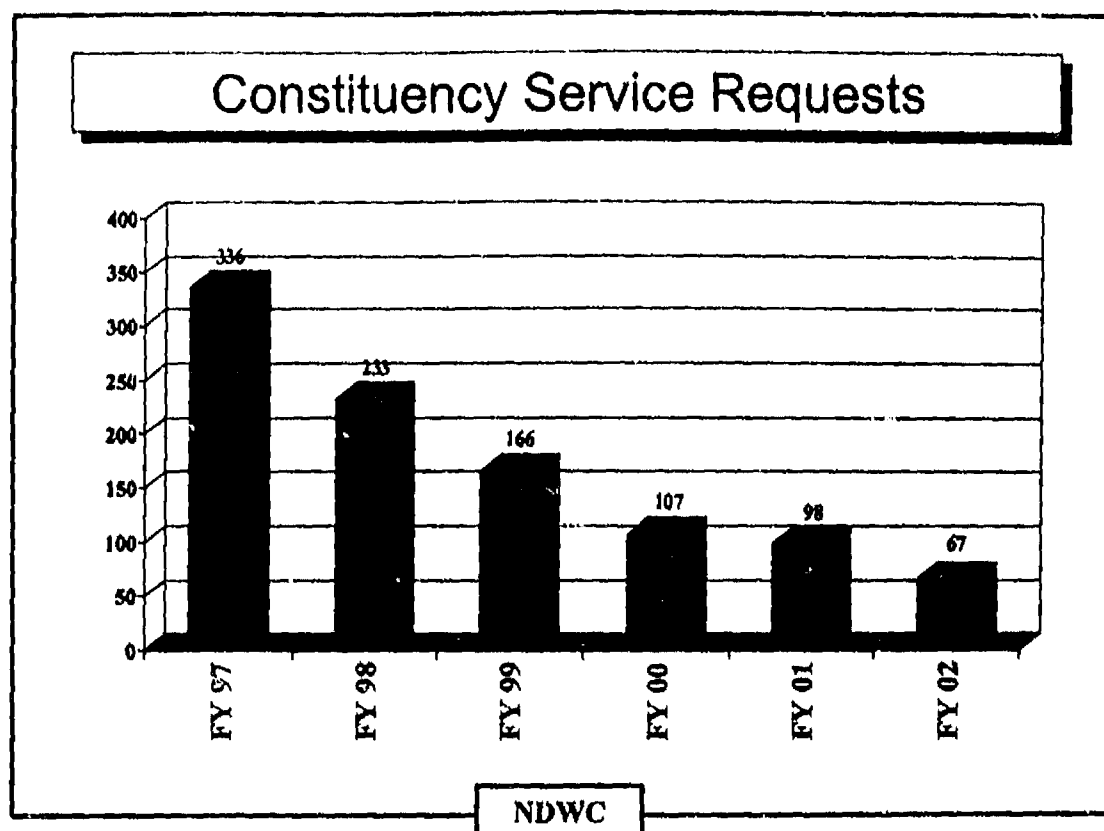
### Wage-Loss Claims Reported Per 100 Covered Workers



The Safety Program was introduced in early 1994.  
By December, 2002 there were 2,859 employers (representing over 1/2 of the state's workforce) utilizing an approved safety plan.

NDWC





In May 2002, the NDWC Board of Directors held its first strategic planning retreat to chart a course for the future of the organization. Keeping NDWC's mission of providing quality, comprehensive workers compensation products and services in mind, the Board mapped out an aggressive strategic plan and targeted ten directional goals found on page seven of my testimony. These goals formed the foundation for much of the appropriation request you are considering today. Tammy Dolan, Vice President of Fiscal and Information Services will provide you with an overview of the key components of NDWC's appropriation request. I will be happy to answer any questions you may have of me at this time, or upon the completion of Ms. Dolan's testimony.

Page 6

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Date

1. Developing a subsidiary to provide coverage for North Dakota employers with employees on temporary or incidental assignment in Minnesota.
2. Secure and expand facilities in the eastern part of the state to provide quality, comprehensive services.
3. Operate with a new organization name by mid-2003 to coincide with the move into our new building.
4. Provide enhanced web-based information and e-Commerce solutions to our customers.
5. Initiate innovative reward and development systems that help attract and retain quality staff.
6. Continue to be the sole provider of workers' compensation products and services in North Dakota.
7. The Board of Directors will have an integrated role in the organization's strategic public relations plan.
8. To strengthen the Board's governance process by providing Board development through education, orientation, and training and work to make enhancements to the legislated Board structure.
9. Develop new incremental revenue from non-traditional sources with 5 percent of total revenue as a goal by the fourth quarter of 2005.
10. Establish a funding level policy addressing fund surplus targets and reserve discount practices.

Page 7

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*La Costa Rickford*  
Operator's Signature

*10/15/03*  
Date

Exhibit  
# 3

SENATE BILL 2023

Fifty-Eighth Legislative Assembly  
Before the Senate Appropriations Committee  
January 20, 2003

Testimony Regarding Workers Compensation Appropriation

Good morning Chairman Holmberg and Members of the Committee. My name is Tammy Dolan, and I am Vice President of Fiscal and Information Services for North Dakota Workers Compensation.

A summary of our budget request appears immediately below, as it was included in Governor Hoeven's executive recommendation. NDWC is funded entirely by employer premiums and does not receive any general fund dollars.

	Current Budget 2001-2003	Executive Recommendation 2003-2005	Amount of Change From 2001-2003	Percentage Change From 2001-2003
Agency Appropriation	<u>31,641,340</u>	<u>32,673,205</u>	<u>1,031,865</u>	<u>3.3%</u>
FTE	228.00	228.00	0.00	0.0%

Although the 2001 Legislative Assembly approved a single-line appropriation, NDWC submitted its budget to OMB at the line item level for greater detail and comparability with other agencies. Additional detail is provided in *Attachment 1*.



### STAFFING LEVELS

The budget recommended by Governor Hoeven includes \$23,399,408 for the current staffing levels of 228 FTE, 6 Temps, and 10 Board Members. This includes \$716,932 for pay increases in the next biennium. While this is the same funding level provided to all State agencies, NDWC employees do not receive the same across the board raises as most other state employees. Rather, employees are appraised and compensated on a pay-for-performance system. NDWC employees can be awarded increases ranging from 0 - 8 percent. The average performance increase received in 2002 was 4.8 %.

The 2001 Legislative Assembly authorized the addition of 25 FTE in order to eliminate contracted services pertaining to claims adjusting and claims administration. Contracted employees in medical bill entry, medical bill audit, return-to-work services and utilization review were brought in-house and have saved NDWC nearly \$4.8 million in 2001-2003.

Another 10 FTE were provided by the 2001 Legislative Assembly to be used at the discretion and with the approval of the NDWC Board of Directors. The majority, 7 FTE, were used to bring contracted information technology services in-house at a savings of about \$590,000 per biennium. Additionally, two contracted independent review advocates were converted to FTE, which resulted in a biennial savings of \$118,000. The remaining 1 FTE was used for a Facility Manager for Century Center, NDWC's new building. *Attachment 2* details the cost savings provided by the new FTE.

### OPERATING COSTS

The Executive Budget Recommendation includes \$7,643,797 in operating expenses for the next biennium. NDWC has made great progress in trimming operating expenses over the past few

years. The construction of a new office building is projected to save nearly \$600,000 in the next biennium by eliminating almost \$1,000,000 in rental payments. *Attachment 3* provides an update on the building's progress and a fact sheet is at the back of my testimony.

To expand and improve workers compensation services in eastern North Dakota, NDWC's Board of Directors has set a goal to open a customer service center in Fargo by July 2003. Currently, NDWC maintains a field office in Fargo staffed with 3 policyholder premium auditors, 3 loss prevention specialists, and 2 nurse case managers. These employees work mainly in the field, as their office space and computer connections do not allow for personal meetings with employers or employees.

The expanded customer service is expected to house current staff, as well as claims, policyholder service, and customer service professionals to provide a full-service center to our constituency in eastern North Dakota. In addition, this office will be electronically linked to the main office building in Bismarck, allowing for video conferencing capabilities. Currently discussions occur via telephone, by mail or by traveling to Bismarck. The estimated additional cost for this customer service center is \$324,000 for additional rental space, operating costs, necessary equipment and moving expenses.

Another strategic goal adopted by the Board of Directors is to provide enhanced web-based information and e-commerce solutions to North Dakota employers, employees and medical providers. NDWC intends to offer as many workers compensation functions as possible over the Internet by 2004. Current plans would allow North Dakota employees and businesses to complete claim filing, review claim costs, apply for insurance coverage, verify account billing

and payment activity, pay premium bills, print certificates of insurance, and file payroll reports over the Internet.

Meeting this goal will require NDWC to overhaul and replace its current web-based applications with IBM Websphere technology. The additional hardware and software costs are expected to be \$475,000, while staff training and professional development will require a commitment of \$250,000. NDWC will also leverage this technology for future in-house development where client/server technology is currently being used. This will allow us to realize long-term savings in application development costs and more effective use of IT resources.

#### **CAPITAL ASSETS**

The Executive Budget Recommendation provides \$370,000 for equipment purchases in the next biennium. Due to NDWC's commitment to technology, the majority is earmarked for replacement of our IBM optical jukebox, image printers, several older Compaq servers, as well as a SAN upgrade and the purchase of Citrix servers. This equipment is at the end of its estimated useful life and its replacement complies with NDWC's technology replacement cycle as well as the Best Practices for Total Cost of Ownership established through the Enterprise Architecture process.

#### **SAFETY PARTNERSHIP GRANTS**

Also included in the recommended budget is the safety partnership grant program. This program began in 1999 and has helped prevent workplace injuries over the past four years by targeting high-risk occupations and allowing those industries to customize their own specific

safety program based on first hand experiences. *Attachment 4* is a summary of the most recent grants awarded and results achieved. Some highlights are:

- Since 1999, 16 grants have been awarded to 10 different organizations.
- In 2001, OMB Risk Management was awarded a loss control and claims management grant to help administer the consolidated state agency workers compensation account.
- Since inception of the grant program, nearly 9,000 workers have received safety training.
- The annual loss costs for the North Dakota Association of Counties have dropped from an average of \$495,000 to just under \$200,000 in just three years since the start of their grant.

The grant programs are significantly impacting employee health and safety while requiring less resources from NDWC than if they were brought in-house. It is also advantageous for NDWC to select an external contractor because the safety services are viewed as being "from the industry" or "on the employer's side." This allows NDWC to provide loss prevention services to employers who otherwise may not be as open to these services.

#### CONCLUSION

This concludes our budget testimony. Thank you for your time and consideration. Both Brent Edison and I would now be happy to answer any questions you may have.

**Attachment 1**  
**2003 - 2005 Appropriation Request Detail**

This summary provides additional detail for NDWC's single-line appropriation request.

	Current Budget <u>2001-2003</u>	Executive Recommendation <u>2003-2005</u>	Amount of Change From <u>2001-2003</u>	Percentage Change From <u>2001-2003</u>
Salaries and Wages	20,848,251	23,399,408	2,551,157	12.2%
Operating Expenses	8,147,632	7,643,797	(503,835)	-6.2%
Capital Assets	1,385,457	370,000	(1,015,457)	-73.3%
Safety Partnership Grants	<u>1,260,000</u>	<u>1,260,000</u>	<u>0</u>	<u>0.0%</u>
Agency Appropriation	<u>31,641,340</u>	<u>32,673,205</u>	<u>1,031,865</u>	<u>3.3%</u>
FTE	228.00	228.00	0.00	0.0%

## Attachment 2 FTE Update

This summary shows how NDWC used the additional FTE given to NDWC by the 2001 Legislative Assembly and the resulting cost savings.

<u>Description</u>	<u>FTE</u>	<u>Biennial Cost per Contract</u>	<u>Biennial Cost as FTE</u>	<u>Biennial Savings</u>
Medical Services	9	1,100,000	680,346	419,654
Return To Work	10	4,100,000	940,903	3,159,097
Utilization Review	6	1,600,000	442,638	1,157,362
Information Technology	7	1,235,639	645,675	589,964
Independent Review	<u>2</u>	<u>228,788</u>	<u>110,313</u>	<u>118,475</u>
Subtotal	34	8,264,427	2,819,875	5,444,552
Facility Manager	<u>1</u>	<u>N/A</u>	<u>90,192</u>	<u>N/A</u>
Total	<u>35</u>	<u>8,264,427</u>	<u>2,910,067</u>	<u>5,444,552</u>

**Attachment 3**  
**Century Center Update**

This summary provides a financial update on NDWC's new building construction. A building fact sheet is attached to the back of this testimony.

<b><u>Construction Costs</u></b>	
Initial Architect/Engineer Estimates	\$12,062,363
Current Projected Total Cost	<u>10,905,589</u>
Over (Under) Budget	\$(1,156,774)
<b><u>Total Costs</u></b>	
Land	\$901,974
Construction Costs	<u>10,905,589</u>
Grand Total	\$11,807,563

## **Attachment 4**

### **Safety Partnership Initiative Grant Summary**

This summary briefly describes each of the safety grants awarded in the 2001-2003 biennium.

#### **Associated General Contractors of ND \$170,000**

The ND Associated General Contractors contracted with a safety professional to provide a complete range of safety and loss prevention services to construction industry employers. The construction industries account for over \$17 million in yearly premium.

The AGC safety professional has met with all the primary members of the AGC and established a relationship with them. The AGC has 105 active association members.

#### **ND Motor Carriers, Auto Dealers, & Implement Dealers Associations \$185,000**

These associations contracted with a safety professional to develop and present industry-specific loss prevention resources for employers. The contractor also is tasked with recruitment of industry employers into NDWC's Risk Management Program and Small Account Safety Incentive Program. These industries account for over \$19 million in yearly premium.

The grantee has trained over 1,400 employers and employees.

#### **OMB/Risk Management Division \$150,000**

This grant was awarded to the Risk Management Division of OMB to establish a workers compensation program for state agencies. This was the result of an agreement between NDWC and the 2001 state legislature.

#### **ND Labor Education Council \$196,900**

The ND Labor Education Council contracted with a safety professional to provide safety training to construction tradesmen and apprentices. The contractor also is tasked with assisting construction contractors with their training requirements for OSHA and NDWC's Risk Management Program.

The grantee has trained over 1,600 construction tradesmen and apprentices.

#### **ND Association of Counties \$190,000**

The ND Association of Counties hired a claims manager to develop and implement a model return-to-work program, improve safety services to the counties, and explore the possibility of



developing an automated internal claims management system. NDACo is one of NDWC's largest premium payers and is the second largest public account in NDWC.

The average annual claims costs paid prior to the grant program were \$495,000. In 2000, the claims cost paid were \$197,000; and in 2001 they were \$194,000.

**ND Safety Council - Annual Seminar \$100,000**

The grant was awarded to enhance the quality of the Annual ND Safety & Health Seminar and provide scholarships (\$50/person) to attendees who work for an employer enrolled in a NDWC discount program.

493 scholarships were awarded for the February 2002 conference.

**ND Safety Council - SASIP Membership \$45,000**

The grant was awarded to provide incentive for employers to enroll in the Small Account Safety Incentive Program (SASIP) by offering a coupon worth \$100 toward their first year's membership with the NDSC.

12 companies have taken advantage of the \$100 coupon. Twenty defensive driving courses have been scheduled throughout the state. Over 150 employees trained so far.

**ND State Electrical Board \$5,000**

The grant was awarded to educate workers on the dangers of exposed electrical panels on construction sites and to promote safety by purchasing temporary covers for such exposed electrical panels.

**NDSU Extension Service \$7,140**

The grant was awarded to hire an agricultural first aid/health instructor for their Tractor Safety School. The instructor will train youth on agricultural first aid, respiratory health, chemical safety in agriculture, identification of hazards, personal reaction time and hearing loss prevention. To be conducted May & June 2003.

**ND Safety Professionals \$19,300**

The grant was awarded to sponsor a 4-day OSHA 501: Train-the-Trainer General Industry course. The course was free to members and \$100 to non-members (\$100 includes one-year membership with the ND Safety Professionals). Class conducted August 20 - 23, 2002. Twenty-six participants completed the course. Seventeen companies were represented.

**Northern Occupational Safety & Health Association \$2,000**

The grant was awarded to help students become aware of safe and unsafe conditions and how to prevent or correct them. Grant dollars will be used to cover the cost of their "Safety Student of the Month" project. This will be conducted in the Grand Forks school system. To be completed by June 30, 2003.

**ND Healthcare Association \$27,916**

The grant was awarded to sponsor a 2-day OSHA course for health care facilities. As an employer group, they are one of the top three largest in ND. To be completed April 2 & 3, 2003.

**ENGROSSED SENATE BILL 2023**

**Fifty-Eighth Legislative Assembly  
Before the Education and Environmental Division of the  
House Appropriations Committee  
March 4, 2003**

**Testimony Regarding Workers Compensation Appropriation**

Chairman Martinson and Members of the Committee. My name is Tammy Dolan, and I am Vice President of Fiscal and Information Services for North Dakota Workers Compensation.

A summary of our budget request appears immediately below. Governor Hoeven's executive recommendation included \$251,735 for salary increases during 2003 - 2005, but was removed by the Senate. The bill as amended was unanimously approved by the Senate.

NDWC is funded entirely by employer premiums and does not receive any general fund dollars. Although the 2001 Legislative Assembly approved a single-line appropriation, NDWC submitted its budget to OMB at the line item level for greater detail and comparability with other agencies. The following chart provides this additional information.

<b>NDWC 2003 - 2005 Appropriation Request</b>				
	<u>Current Budget 2001-2003</u>	<u>Engrossed SB 2023</u>	<u>Amount of Change From 2001-2003</u>	<u>Percentage Change From 2001-2003</u>
Salaries and Wages	20,848,251	23,147,673	2,299,422	11.0%
Operating Expenses	8,147,632	7,643,797	(503,835)	-6.2%
Capital Assets	1,385,457	370,000	(1,015,457)	-73.3%
Safety Partnership Grants	<u>1,260,000</u>	<u>1,260,000</u>	<u>0</u>	<u>0.0%</u>
<b>NDWC Appropriation</b>	<b><u>31,641,340</u></b>	<b><u>32,421,470</u></b>	<b><u>780,130</u></b>	<b><u>2.5%</u></b>
<b>FTE</b>	<b>228.00</b>	<b>228.00</b>	<b>0.00</b>	<b>0.0%</b>

### STAFFING LEVELS

The budget request includes \$23,147,673 for the current staffing levels of 228 FTE, 6 Temps, and 10 Board Members. This does not include any funding for pay increases in the next biennium, which is the same funding level provided to all State agencies.

The 2001 Legislative Assembly authorized the addition of 25 FTE in order to eliminate contracted services pertaining to claims adjusting and claims administration. Contracted employees in medical bill entry, medical bill audit, return-to-work services and utilization review were brought in-house and have saved NDWC nearly \$4.8 million in 2001-2003. Since the contract costs were claims-related and non-appropriated they are not reflected in our appropriation. However, if they could be included, the appropriation request would show a 12.7% overall cost decrease for the 2003 - 2005 biennium.

Another 10 FTE were provided by the 2001 Legislative Assembly to be used at the discretion and with the approval of the NDWC Board of Directors. The majority, 7 FTE, were used to bring contracted information technology services in-house at a savings of about \$590,000 per biennium. Additionally, two contracted independent review advocates were converted to FTE, which resulted in a biennial savings of \$118,000. The remaining 1 FTE was used for a Facility Manager for Century Center, NDWC's new building. The use of FTE and related savings is shown on the next page.

### 2001 - 2003 New FTE

<u>Description</u>	<u>FTE</u>	<u>Biennial Cost per Contract</u>	<u>Biennial Cost as FTE</u>	<u>Biennial Savings</u>
Medical Services	9	1,100,000	680,346	419,654
Return To Work	10	4,100,000	940,903	3,159,097
Utilization Review	6	1,600,000	442,638	1,157,362
Information Technology	7	1,235,639	645,675	589,964
Independent Review	2	228,788	110,313	118,475
Subtotal	34	8,264,427	2,819,875	5,444,552
Facility Manager	1	N/A	90,192	N/A
Total	35	8,264,427	2,910,067	5,444,552

### OPERATING COSTS

This request also includes \$7,643,797 in operating expenses for the next biennium. NDWC has made great progress in trimming operating expenses over the past few years. The construction of a new office building is projected to save nearly \$600,000 in the next biennium by eliminating almost \$1,000,000 in rental payments. The next chart provides an update on the building's financial status, and a construction fact sheet is at the back of my testimony.

### Century Center Cost Update

<u>Construction Costs</u>	
Initial Architect/Engineer Estimates	\$12,062,363
Current Projected Total Cost	<u>10,953,230</u>
Over (Under) Budget	\$(1,109,133)
<u>Total Costs</u>	
Land	\$901,974
Construction Costs	<u>10,953,230</u>
Grand Total	\$11,855,204

To expand and improve workers compensation services in eastern North Dakota, NDWC's Board of Directors has set a goal to open a customer service center in Fargo by July 2003. Currently, NDWC maintains a field office in Fargo staffed with 3 policyholder premium auditors, 3 loss prevention specialists, and 2 nurse case managers. These employees work mainly in the field, as their office space and computer connections do not allow for personal meetings with employers or employees.

The expanded customer service is expected to house current staff, as well as claims, policyholder service, and customer service professionals to provide a full-service center to our constituency in eastern North Dakota. In addition, this office will be electronically linked to the main office building in Bismarck, allowing for video conferencing capabilities. Currently discussions occur via telephone, by mail or by traveling to Bismarck. The estimated additional cost for this customer service center is \$324,000 for additional rental space, operating costs, necessary equipment and moving expenses.

Another strategic goal adopted by the Board of Directors is to provide enhanced web-based information and e-commerce solutions to North Dakota employers, employees and medical providers. NDWC intends to offer as many workers compensation functions as possible over the Internet by 2004. Current plans would allow North Dakota employees and businesses to complete claim filing, review claim costs, apply for insurance coverage, verify account billing and payment activity, pay premium bills, print certificates of insurance, and file payroll reports over the Internet.

Meeting this goal will require NDWC to overhaul and replace its current web-based applications with IBM Websphere technology. Software, data processing costs, staff training and professional development will require a commitment of \$250,000 during the 2003-2005 biennium. NDWC will also leverage this technology for future in-house development where client/server technology is currently being used. This will allow us to realize long-term savings in application development costs and more effective use of IT resources.

#### **CAPITAL ASSETS**

The proposed budget provides \$370,000 for equipment purchases in the next biennium. Due to NDWC's commitment to technology, the majority is earmarked for replacement of our IBM optical jukebox, image printers, several older Compaq servers, as well as a SAN upgrade and the purchase of Citrix servers. This equipment is at the end of its estimated useful life and its replacement complies with NDWC's technology replacement cycle as well as the Best Practices for Total Cost of Ownership established through the Enterprise Architecture process.

#### **SAFETY PARTNERSHIP GRANTS**

Also included in the appropriation request is funding to support the safety partnership grant program. This program began in 1999 and has helped prevent workplace injuries over the past four years by targeting high-risk occupations and allowing those industries to customize their own specific safety program based on first hand experiences. *Attachment 1* is a summary of the most recent grants awarded and results achieved. Some highlights follow on the next page:

- Since 1999, 16 grants have been awarded to 10 different organizations.
- In 2001, OMB Risk Management was awarded a loss control and claims management grant to help administer the consolidated state agency workers compensation account.
- Since inception of the grant program, nearly 9,000 workers have received safety training.
- The annual loss costs for the North Dakota Association of Counties have dropped from an average of \$495,000 to just under \$200,000 in just three years since the start of their grant.

The grant programs are significantly impacting employee health and safety while requiring less resources from NDWC than if they were brought in-house. It is also advantageous for NDWC to select an external contractor because the safety services are viewed as being "from the industry" or "on the employer's side." This allows NDWC to provide loss prevention services to employers who otherwise may not be as open to these services.

### CONCLUSION

It was recently announced that North Dakota has the lowest workers' compensation premiums in the country, while providing claim benefits that rank in the top third of the nation. At the same time, administrative costs, which will be about 15% of total anticipated premiums for 2003 - 2005, are approximately 50% of other workers compensation funds in the nation. We believe these statistics indicate that NDWC is operating efficiently and effectively and fulfilling our mission to provide quality, comprehensive workers' compensation products and services. We respectfully ask that you approve Engrossed Senate Bill 2023 to assist us in continuing these favorable trends.

Page 6

LaCosta Rickford  
Operator's signature

10/15/03  
Date



Thank you for your time and consideration. Both Brent Edison and I would now be happy to answer any questions you may have.

Page 7

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Lacosta Rickford  
Operator's Signature

10/15/03  
Date

## **Attachment 1**

### **Safety Partnership Initiative Grant Summary**

This summary briefly describes each of the safety grants awarded in the 2001-2003 biennium.

#### **Associated General Contractors of ND \$170,000**

The ND Associated General Contractors contracted with a safety professional to provide a complete range of safety and loss prevention services to construction industry employers. The construction industries account for over \$17 million in yearly premium.

The AGC safety professional has met with all the primary members of the AGC and established a relationship with them. The AGC has 105 active association members.

#### **ND Motor Carriers, Auto Dealers, & Implement Dealers Associations \$185,000**

These associations contracted with a safety professional to develop and present industry-specific loss prevention resources for employers. The contractor also is tasked with recruitment of industry employers into NDWC's Risk Management Program and Small Account Safety Incentive Program. These industries account for over \$19 million in yearly premium.

The grantee has trained over 1,400 employers and employees.

#### **OMB/Risk Management Division \$150,000**

This grant was awarded to the Risk Management Division of OMB to establish a workers compensation program for state agencies. This was the result of an agreement between NDWC and the 2001 state legislature.

#### **ND Labor Education Council \$196,900**

The ND Labor Education Council contracted with a safety professional to provide safety training to construction tradesmen and apprentices. The contractor also is tasked with assisting construction contractors with their training requirements for OSHA and NDWC's Risk Management Program.

The grantee has trained over 1,600 construction tradesmen and apprentices.

#### **ND Association of Counties \$190,000**

The ND Association of Counties hired a claims manager to develop and implement a model return-to-work program, improve safety services to the counties, and explore the possibility of developing an automated internal claims management system. NDACo is one of NDWC's largest premium payers and is the second largest public account in NDWC.

The average annual claims costs paid prior to the grant program were \$495,000. In 2000, the claims cost paid were \$197,000; and in 2001 they were \$194,000.

**ND Safety Council – Annual Seminar \$100,000**

The grant was awarded to enhance the quality of the Annual ND Safety & Health Seminar and provide scholarships (\$50/person) to attendees who work for an employer enrolled in a NDWC discount program.

493 scholarships were awarded for the February 2002 conference.

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12 companies have taken advantage of the \$100 coupon. Twenty defensive driving courses have been scheduled throughout the state. Over 150 employees trained so far.

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**ND Healthcare Association \$27,916**

The grant was awarded to sponsor a 2-day OSHA course for health care facilities. As an employer group, they are one of the top three largest in ND. To be completed April 2 & 3, 2003.

# Century Center

1600 East Century Avenue, Suite 1  
Bismarck, ND 58503-0644

March 3, 2003

## Architectural Renderings



Ritterbush - Ellig - Hulsing, P.C.  
Architects - Planners

## New Construction Photos As of March 3, 2003



### Construction Facts

- 4-floor office building.
- 111,900 square foot office space, plus 4,100 square foot rooftop mechanical room.
- Located on a 7.68-acre lot.
- Masonry exterior.
- Numerous windows and a large glass element to provide natural lighting.
- Entries on first and second floors due to the natural slope of the site.
- Off-street parking for 450 employees and visitors.
- Cellular floor system for power and data cables.
- Card key security system.
- Computer-friendly indirect lighting system.

### Energy Efficiency

- Geothermal heat pump system for heating and air conditioning.
- Heat recovery ventilation units that utilize exhausted air to heat up fresh air.
- Building automation system.
- Low voltage lighting control.

### Building Tenancy

- NDWC will occupy the third and fourth floors.
- Second floor tenants will be the North Dakota Commerce Department and North Dakota Parks and Recreation.
- First-floor tenants will include the North Dakota Human Services Department Child Support Services and Provider Audit divisions, the North Dakota Council on the Arts, and the Risk Management Division of the Office of Management and Budget.
- Tenants are scheduled to be in the new building by June 2003.
- The first and second floors will have secured lobbies that will provide visitor access for tenants.
- Half of the first floor is dedicated to storage, building maintenance, and mechanical rooms.

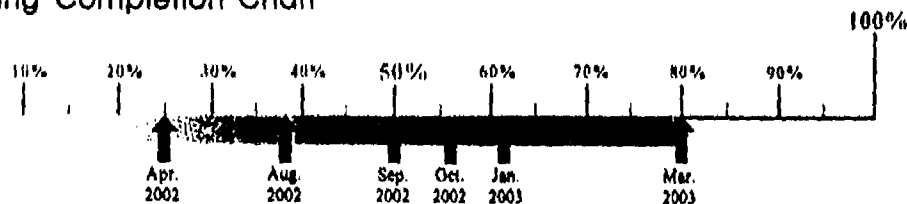
### Costs and Investment Return

- The total project is estimated to cost approximately \$11.5 million.
- Initial office rental fees for office space are \$13 per square foot. Storage space is \$4.5 per square foot.
- Annual payment in lieu of property taxes is made to the City of Bismarck.
- NDWC no longer will pay rent and related costs, which amount to nearly \$500,000/year.
- Rental income will provide an estimated 5-7% return on the investment.

### Project Schedule

- February 15, 2001: Awarded architectural contract to Ritterbush-Ellig-Hulsing P.C. of Bismarck.
- August 2, 2001: Awarded earthwork contract to Weisz & Sons Inc. of Bismarck.
- October 1, 2001: Earthwork was completed by Weisz & Sons Inc. of Bismarck.
- October 19, 2001: Awarded construction bids to Capital City Construction Inc., H.A. Thompson & Sons, and Edling Electric Inc., all of Bismarck, and Robert Gibb & Sons of Fargo.
- May - June 2003: Scheduled project completion.

### Building Completion Chart



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*La Costa Rickford*  
Operator's Signature

10/15/03  
Date

Exhibit  
5.

## North Dakota Workers Compensation

NORTH DAKOTA WEEKLY BENEFIT LEVELS			
EFFECTIVE	MAXIMUM <sup>1</sup>	MINIMUM <sup>2</sup>	PPI <sup>3</sup>
07-01-02	\$537	\$293	\$163
07-01-01	\$516	\$282	\$157
07-01-00	\$497	\$271	\$151
08-01-99	\$480	\$262	\$146
07-01-99 TO 07-31-99	\$436	\$262	\$146
07-01-98	\$417	\$251	\$139
07-01-97	\$402	\$241	\$134
07-01-96	\$387	\$233	\$129
07-01-95	\$376	\$226	\$126
07-01-94	\$366	\$220	\$122
07-01-93	\$358	\$215	\$120
07-01-92	\$343	\$206	\$115
07-01-91	\$334	\$201	\$112
07-01-90	\$321	\$193	\$107

<sup>1</sup> Effective August 1, 1999, the maximum weekly benefit is equal to 110% of the SAWW.

<sup>2</sup> The minimum benefit is equal to 60% of the SAWW unless this amount exceeds the employee's net wages (gross wages minus deductions for federal income tax and social security) in which case the employee receives net wages as a weekly compensation rate.

<sup>3</sup> The PPI rate is equal to 33 $\frac{1}{3}$ % of the SAWW in effect on the date of the impairment evaluation.

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Operator's Signature

*La Costa Rickford*

10/15/03  
Date

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# NDWC Quarterly Operating Report

Quarter Ending: December 31, 2002



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*Lacosta Rickford*  
Operator's Signature

*10/15/03*  
Date