

HB 1352 Testimony
Industry, Business and Labor Committee
January 26, 2021 9:00 a.m.

Good morning, Chairman Lefor and members of the Industry, Business and Labor Committee. My name is Kylie Hall, and I am writing to state my opposition to this bill. I have a Master's Degree in Public Health and have worked at the North Dakota State University Center for Immunization Research and Education for the past 5 and 1/2 years. I would like to make clear that my comments today are not on behalf of NDSU.

What is HB 1352?

A [BILL](#) relating to liability of medical products.

Why This Bill Should Not Be Passed

If this bill were passed, immunizations could not be required by any employer, school, childcare – all because vaccine manufacturers are not liable for unforeseen adverse events following vaccination, as another liability mechanism has already been put in place by the federal government.

This would affect healthcare facilities (and other businesses) that require immunizations for their employees. These requirements protect healthcare workers and the patients they serve. It would supersede school immunization requirements, which help assure a vaccinated population and safe learning environment for all students. (For those who don't want to be vaccinated, they can opt for an immunization exemption.) Lastly, it would affect immunization requirements for university students, which helps prevent the spread of deadly infectious diseases in community living settings. (Exemptions are also available for college students.)

Important Information about Vaccine Manufacturer Liability

Vaccines, like other medicines, can have side effects. No medical intervention is completely risk free. When side effects do occur from vaccination, they are typically mild; serious adverse events following vaccination are very rare. When an event or illness happens following a vaccination it's very easy to suggest a causal link, and it may not be possible to prove that the vaccine was not the cause. (It's impossible to prove a negative.)

Vaccines are manufactured by pharmaceutical companies. In the 1970s and 1980s, drug manufacturers began to withdraw from vaccine production because not only was the research and development process extremely costly and time-consuming, but the manufacturers were also liable for any unforeseen and potentially rare injury linked to their vaccine. While a successful vaccine could prevent hundreds of thousands of cases of deadly disease, it could also lead to a few rare incidences of side effects that could lead to *multimillion-dollar* lawsuits. (In many cases, damages were awarded despite the absence of scientific evidence.). Because of this, the incentive for creating vaccines became highly unfavorable in the eyes of pharmaceutical companies and manufacturing declined greatly.

U.S. public health officials become concerned about the development of new vaccines and the supply of existing vaccines. Thus, Congress passed the National Childhood Vaccine Injury Act of 1986 which created the National Vaccine Injury Compensation Program (NVICP). Should

someone experience a rare, unforeseen adverse event following vaccination, they can now submit a claim through the compensation program.

The NVICP is funded by a tax added to every vaccine dose. This program provides liability protection to vaccine manufacturers and vaccine administrators who administered covered vaccines. There are four key things to understand about NVICP:

1. Compensation doesn't *prove* causation.
2. People not happy with the outcome can still take their case to regular court.
3. The fund contains \$3.5 billion dollars, not because people can't get compensated, but rather because the requirements of petitioners are often not satisfactorily met and in reality, vaccine injuries are rare.
4. The requirements are two-fold: the events have to be temporally related AND some biologically-plausible explanation why the events could be related must be accounted for.

Unfortunately, misconceptions around this program make it an easy source of misinformation commonly used in efforts to convince parents that vaccines are not safe. If you look closely at data from the compensation program, you will see that the ratio of number of settlements awarded compared to the number of vaccines given annually shows that vaccines **are extremely safe**.

Finally, there is one distinction I would like to make: vaccine manufacturers **are liable** for negligence. Should we ever find that vaccine companies are guilty of negligence, those claims would not fall under this act and the manufacturer would be liable. The vaccine injury compensation program is only for unforeseen events.

If passed, immunizations could no longer be required for employment or school entry. Please do not pass House Bill 1352.

REFERENCES:

[National Vaccine Injury Compensation Program | Official web site of the U.S. Health Resources & Services Administration \(hrsa.gov\)](https://www.hrsa.gov/nvcp/)
[Appendix D Vaccine Safety - Pink Book 2015 - Vaccine Injury Compensation Program \(VICP\) \(cdc.gov\)](https://www.cdc.gov/vaccine-safety/pink-book-2015/)
[How the Vaccine Injury Compensation Program Works - The Atlantic](https://www.theatlantic.com/health/archive/2014/05/how-the-vaccine-injury-compensation-program-works/368442/)
[News & Views: National Vaccine Injury Compensation Program | Children's Hospital of Philadelphia \(chop.edu\)](https://www.childrenshospital.org/news-views/nvcp/)