

**2023 HOUSE POLITICAL SUBDIVISIONS**

**HB 1279**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1279  
1/26/2023

Relating to the presumption of compensability for firefighters and law enforcement officers.
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Chairman Longmuir opened the hearing on HB 1279 at 2:00 PM.

Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, Rep. Hager

### Discussion Topics:

- Required health and medical examination
- Amendment
- Emergency clause
- WSI claims
- Fiscal Note
- Presumption clause

Rep. Shannon Roers Jones: Introduced the bill.

Denis Otterness, Chief of Police, West Fargo Police Dept., testified in favor of HB 1279, testimony #17144.

Officer Tim Brown, West Fargo Police Department: spoke in favor of HB 1279.

Bernie Dardis, Mayor West Fargo: testified in favor of HB 1279, testimony #17062.

Art Thompson: Executive Director, WSI: testified in favor of HB 1279, testimony #16735

Dave Zibolski: Fargo Police Department: spoke in favor of HB 1279.

Steve Dirksen, Fire Chief, City of Fargo, testified in favor of HB 1279, testimony #17214.

Daniel Fuller, Fire Chief, City of West Fargo testified in favor of HB 1279, testimony #17088.

Stephanie Dassinger Engebretson, ND League of Cities and Chiefs of Police Association of ND, testified in favor of HB 1279, testimony #17416, 23.0029.02001, proposed amendment., testimony #17024, #17023.

Darin Schimke, President of the Professional Fire Fighters of ND, spoke in favor of HB 1279.

House Political Subdivisions Committee  
HB 1279  
January 26, 2023  
Page 2

Rep. Shannon Roers Jones, Testimony #17218

**Additional written testimony:**

Mark Simmons, City of West Fargo: Testimony #17064

Aaron Hummel, ND Highway Patrol: Testimony #17165

Hearing closed at 3:29 PM.

*Delores Shimek, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1279  
1/27/2023

Relating to the presumption of compensability for firefighters and law enforcement officers.

Chairman Longmuir opened the hearing on HB 1279 at 10:10 AM.

Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, Rep. Hager  
Members absent: Rep. Klemin

### Discussion Topics:

- Amendment
- Five year exemption
- Premium concerns
- Emergency clause
- Strenuous circumstances

Rep. Ostlie moved the amendment. 23.0029.02002.

Seconded by Rep. Jonas

Rep. Shannon Roers Jones: Discussion proposed amendment, # 17416.

Roll call vote

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	N
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	AB
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Motion carries 12-0-1

Representative Rios moved a do pass as amended.

Representative Ostlie seconded.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	AB
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Motion carries 12-0-1. Representative Jonas will carry the bill.

Meeting closed at 10:41 AM.

Reconsidered 1/31/23 at 12:00 PM.

*Delores Shimek, Committee Clerk*

JA 1-27-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to compensability for cardiac events for firefighters and law enforcement officers; to amend and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to documentation required for firefighters and law enforcement officers and the presumption of compensability for firefighters and law enforcement officers; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15. Yearly documentation required for firefighter and law enforcement officer.**

Except for benefits for an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement officer who uses tobacco is not eligible for the benefits provided under ~~section~~sections 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

**SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.**

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service

3

and has successfully passed a medical examination which fails to reveal any evidence of such a condition. The five years of continuous service requirement may include full-time paid service outside the state. An employer shall ~~require~~<sup>provide</sup> at no expense a medical examination upon employment, for any employee subject to this section.

2A  
1-27-23

- a. After the initial medical examination, an employer shall ~~require~~<sup>provide</sup> at no expense at least a periodic medical examination as follows: for one to ten years of service, every five years; for eleven to twenty years of service, every three years; and for twenty-one or more years of service, every year. The periodic medical examination, at a minimum, must consist of a general medical history of the individual and the individual's family; an occupational history including contact with and an exposure to hazardous materials, toxic products, contagious and infectious diseases, and to physical hazards; a physical examination including measurement of height, weight, and blood pressure; and laboratory and diagnostic procedures ~~including a nonfasting total blood cholesterol test indicating cardiovascular health~~ to a reasonable degree of medical certainty.
  - b. If the medical examination reveals that an employee falls into a recognized risk group, the employee must be referred to a qualified health professional for future medical examination.
  - c. If a medical examination produces a false positive result for a condition covered under this section, the organization shall consider the condition to be a compensable injury. In the case of a false positive result, neither the coverage of the condition nor the period of disability may exceed fifty-six days. This section does not affect an employee's responsibility to document that the employee has not used tobacco as required under section 65-01-15. Results of the examination must be used in rebuttal to a presumption afforded under this section.
4. For purposes of this section, "law enforcement officer" means ~~a person~~<sup>an individual</sup> who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.
  5. The presumption does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed for ten years or less, if the condition or impairment is diagnosed more than two years after the employment as a full-time paid firefighter or law enforcement officer ends. The presumption also does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed more than ten years, if the condition or impairment is diagnosed more than five years after the employment as a full-time paid firefighter or law enforcement officer ends.

13

**SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted as follows:

24  
1-27-23

**65-01-15.2. Presumption of compensability for cardiac events of full-time paid firefighters and law enforcement officers.**

1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:
  - a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity, or emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs no later than forty-eight hours after the full-time paid firefighter or law enforcement officer engaged or participated in the activity listed under subdivision a.
2. The presumption under subsection 1 may be rebutted by clear and convincing evidence the condition or impairment was not work-related.
3. This section applies to any full-time paid firefighter or law enforcement officer who has less than five years of continuous service.
4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless the full-time paid firefighter or law enforcement officer has successfully passed a medical examination that failed to reveal any evidence of a cardiovascular condition.
5. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full-time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

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

Renumber accordingly

13



# 2023 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1279  
1/31/2023

Relating to the presumption of compensability for firefighters and law enforcement officers.

Chairman Longmuir reopened the meeting on HB 1279 at 12:00 PM.

Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Hager

Members absent: Representative Motschenbacher, Representative Davis

### Discussion Topics:

- Amendment
- WSI Hearing is scheduled

Representative Warrey moved to reconsider the amendment.

Representative Heilman seconded.

Roll call vote:

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	A
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	A
Representative Mitch Ostlie	Y
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Motion carries 12-0-2.

Representative Warrey moved the amendment 23.0029.02003.

Representative Jonas seconded.

Committee discussion.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	AB
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	AB
Representative Mitch Ostlie	Y
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Motion carries 12-0-2.

Representative Warrey moved a do pass as amended.

Representative Hatlestad seconded.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	AB
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	AB
Representative Mitch Ostlie	Y
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Motion carries 12-0-2. Representative Jonas will carry the bill.

Meeting closed at 12:09 PM.

*Delores Shimek, Committee Clerk*

JA 1-31-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to compensability for cardiac events for firefighters and law enforcement officers; to amend and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to documentation required for firefighters and law enforcement officers and the presumption of compensability for firefighters and law enforcement officers; to provide for retroactive application; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15. Yearly documentation required for firefighter and law enforcement officer.**

Except for benefits for an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement officer who uses tobacco is not eligible for the benefits provided under sections 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

**SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.**

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service

13

and has successfully passed a medical examination which fails to reveal any evidence of such a condition. The five years of continuous service requirement may include full-time paid service outside the state. An employer shall require provide at no expense a medical examination upon employment, for any employee subject to this section.

1-31-23

- a. After the initial medical examination, an employer shall require provide at no expense at least a periodic medical examination as follows: for one to ten years of service, every five years; for eleven to twenty years of service, every three years; and for twenty-one or more years of service, every year. The periodic medical examination, at a minimum, must consist of a general medical history of the individual and the individual's family; an occupational history including contact with and an exposure to hazardous materials, toxic products, contagious and infectious diseases, and to physical hazards; a physical examination including measurement of height, weight, and blood pressure; and laboratory and diagnostic procedures ~~including a nonfasting total blood cholesterol test~~ indicating cardiovascular health to a reasonable degree of medical certainty.
  - b. If the medical examination reveals that an employee falls into a recognized risk group, the employee must be referred to a qualified health professional for future medical examination.
  - c. If a medical examination produces a false positive result for a condition covered under this section, the organization shall consider the condition to be a compensable injury. In the case of a false positive result, neither the coverage of the condition nor the period of disability may exceed fifty-six days. This section does not affect an employee's responsibility to document that the employee has not used tobacco as required under section 65-01-15. Results of the examination must be used in rebuttal to a presumption afforded under this section.
4. For purposes of this section, "law enforcement officer" means a person an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.
  5. The presumption does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed for ten years or less, if the condition or impairment is diagnosed more than two years after the employment as a full-time paid firefighter or law enforcement officer ends. The presumption also does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed more than ten years, if the condition or impairment is diagnosed more than five years after the employment as a full-time paid firefighter or law enforcement officer ends.

**SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted as follows:

24  
1-31-23

**65-01-15.2. Presumption of compensability for cardiac events of full-time paid firefighters and law enforcement officers.**

1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:
  - a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity, or emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs no later than forty-eight hours after the full-time paid firefighter or law enforcement officer engaged or participated in the activity listed under subdivision a.
2. The presumption under subsection 1 may be rebutted by clear and convincing evidence the condition or impairment was not work-related.
3. This section applies to any full-time paid firefighter or law enforcement officer who has less than five years of continuous service.
4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless the full-time paid firefighter or law enforcement officer has successfully passed a medical examination that failed to reveal any evidence of a cardiovascular condition.
5. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full-time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

**SECTION 4. RETROACTIVE APPLICATION.** This Act applies retroactively to a claim for workers' compensation benefits filed after October 1, 2021, regardless of date of injury. A full-time paid firefighter or law enforcement officer who submitted a claim for benefits between October 1, 2021, and the effective date of this Act may resubmit the claim if the initial claim was denied by the organization for not being a compensable injury.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

1/3

**REPORT OF STANDING COMMITTEE**

**HB 1279: Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1279 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to compensability for cardiac events for firefighters and law enforcement officers; to amend and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to documentation required for firefighters and law enforcement officers and the presumption of compensability for firefighters and law enforcement officers; to provide for retroactive application; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

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**SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.**

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service and has successfully passed a medical examination which fails to reveal any evidence of such a condition. The five years of continuous service requirement may include full-time paid service outside the state. An employer shall ~~require~~provide at no expense a medical examination upon employment, for any employee subject to this section.

- a. After the initial medical examination, an employer shall require provide at no expense at least a periodic medical examination as follows: for one to ten years of service, every five years; for eleven to twenty years of service, every three years; and for twenty-one or more years of service, every year. The periodic medical examination, at a minimum, must consist of a general medical history of the individual and the individual's family; an occupational history including contact with and an exposure to hazardous materials, toxic products, contagious and infectious diseases, and to physical hazards; a physical examination including measurement of height, weight, and blood pressure; and laboratory and diagnostic procedures including a nonfasting total blood-cholesterol test indicating cardiovascular health to a reasonable degree of medical certainty.
  - b. If the medical examination reveals that an employee falls into a recognized risk group, the employee must be referred to a qualified health professional for future medical examination.
  - c. If a medical examination produces a false positive result for a condition covered under this section, the organization shall consider the condition to be a compensable injury. In the case of a false positive result, neither the coverage of the condition nor the period of disability may exceed fifty-six days. This section does not affect an employee's responsibility to document that the employee has not used tobacco as required under section 65-01-15. Results of the examination must be used in rebuttal to a presumption afforded under this section.
4. For purposes of this section, "law enforcement officer" means a person an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.
  5. The presumption does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed for ten years or less, if the condition or impairment is diagnosed more than two years after the employment as a full-time paid firefighter or law enforcement officer ends. The presumption also does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed more than ten years, if the condition or impairment is diagnosed more than five years after the employment as a full-time paid firefighter or law enforcement officer ends.

**SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted as follows:

**65-01-15.2. Presumption of compensability for cardiac events of full-time paid firefighters and law enforcement officers.**

1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:

- a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity, or emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs no later than forty-eight hours after the full-time paid firefighter or law enforcement officer engaged or participated in the activity listed under subdivision a.
2. The presumption under subsection 1 may be rebutted by clear and convincing evidence the condition or impairment was not work-related.
  3. This section applies to any full-time paid firefighter or law enforcement officer who has less than five years of continuous service.
  4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless the full-time paid firefighter or law enforcement officer has successfully passed a medical examination that failed to reveal any evidence of a cardiovascular condition.
  5. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full-time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

**SECTION 4. RETROACTIVE APPLICATION.** This Act applies retroactively to a claim for workers' compensation benefits filed after October 1, 2021, regardless of date of injury. A full-time paid firefighter or law enforcement officer who submitted a claim for benefits between October 1, 2021, and the effective date of this Act may resubmit the claim if the initial claim was denied by the organization for not being a compensable injury.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly



**2023 SENATE WORKFORCE DEVELOPMENT**

**HB 1279**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1279  
2/2/2023

Relating to compensability for cardiac events for firefighters and law enforcement officers; to documentation required for firefighters and law enforcement officers and the presumption of compensability for firefighters and law enforcement officers; to provide for retroactive application; and to declare an emergency.

3:01 PM **Chairman Wobbema** called the hearing to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** are present.

### Discussion Topics:

- Cardiac related health emergencies
- Medical exams and physical tests
- Emergency clause
- Service requirements

3:01 PM **Representative Roers Jones** introduced HB 1279 in favor #18719

3:09 PM **Tim Brown Fargo, Officer, West Fargo Policy Department** testimony in favor #18879

3:14 PM **Bernie Dardis, Mayor West Fargo, North Dakota** testimony in favor #18793

3:22 PM **Art Thompson, Executive Director, Workforce Safety and Insurance** testimony in favor #18829

3:28 PM **Daniel Fuller, Chief of the Department, City of West Fargo Fire & Rescue** testimony in favor #18782

3:33 PM **Dave Zibolski, Chief of Police, City of Fargo** testimony in favor verbally

3:40 PM **Stephanie Dassinger Engebretson, North Dakota League of Cities and the Chiefs of Police Association of North Dakota** testimony in favor #18752

3:41 PM **Steve Dirksen Fire Chief City of Fargo, North Dakota** testimony in favor #18884

**Senator Larson** moves **DO PASS**.

**Senator Axtman** seconded the motion.

Roll call vote.

<b>Senators</b>	<b>Vote</b>
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

The motion passed 6-0-0.

**Senator Piepkorn** will carry HB 1279.

**Additional written testimony:**

**Aaron Hummel, Chief of Staff, North Dakota Highway Patrol** in favor #18712

**Dennis Otterness, Chief of Police, West Fargo Police Department** in favor #18796

**Mark Simmons, Commissioner, City of West Fargo** in favor #18802

3:44 PM Chairman **Wobbema** closed the hearing.

*Patricia Lahr, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1279, as engrossed: Workforce Development Committee (Sen. Wobbema, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1279 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**TESTIMONY**

**HB 1279**

**2023 House Bill No. 1279**  
**Testimony before the House Political Subdivisions Committee**  
**Presented by Art Thompson, Executive Director**  
**Workforce Safety and Insurance**  
**Date: January 26, 2023**

Mr. Chairman and Members of the Committee:

My name is Art Thompson, Executive Director of Workforce Safety & Insurance (WSI). I am here today to provide testimony regarding House Bill No. 1279. Governor Burgum has identified this legislation as a high priority, as noted in his State of the State address at the beginning of the 68<sup>th</sup> Legislative Assembly and requests your do-pass recommendation.

The proposed legislation would accomplish three things:

1. Remove the five-year continuous service requirement for presumption claims,
2. Designate the costs of required medical examinations be borne by employers, and
3. Remove the requirement for “nonfasting total blood cholesterol” testing as part of the medical examinations.

By way of background, presumption claims in this section of law differ significantly from other claims within the North Dakota workers’ compensation system. Generally, an injured employee bears the burden of proving an entitlement to benefits. In presumption claims, the claim is presumed compensable, and the burden of proof is upon WSI to show an employee is not entitled to benefits. WSI must do so by clear and convincing evidence.

The employee classes covered by the presumption law include fulltime paid firefighters and law enforcement officers. The types of claims for which the presumption law is available include “lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter(s).” These conditions are presumed to have been suffered in the line of duty.

The five-year continuous service requirement has been part of this statute since 1995. In other words, for the presumption law to apply, the firefighter or law enforcement officer must have five years of continuous service. Elimination of the five-year service requirement will entitle all law enforcement and firefighters covered under this statute the benefit of the presumption law on the first day of employment.

The Governor’s support of the elimination of the service requirement is the administration’s prioritization of recruitment and retention of employees in these critical professions. Allowing for the presumption law to apply from the beginning of employment is just one way we can try eliminate the shortage of employees in these difficult, yet very necessary professions. Of the thirty states that have presumption clauses, all have a service requirement ranging from two to twelve years.

The second notable change will clearly assign responsibility for payment of the required periodic medical examinations under this statute to the employer. The statute requires the firefighters and law enforcement personnel to undergo medical examinations at varying intervals based upon an employee’s term of service. Employers of the full-time firefighters and law enforcement officers are generally the State of North Dakota and its political subdivisions.

Finally, the requirement that these examinations include “nonfasting total blood cholesterol” tests is proposed to be removed. Instead, the medical provider has the discretion to perform testing to gather necessary information to evaluate an employee’s cardiovascular health.

Elimination of the 5-year minimum service requirement provision for future claims, or prospectively, will serve to increase the number of presumption related claims. To what extent is unclear, as we do not have the historical experience to make that determination. Because of this unknown, the WSI Board has taken a neutral position on this bill.

What we do know is WSI averages approximately 10 presumption claims a year. The highest cost presumption claim was \$11.5 million. Excluding that large claim from the averages, the average cost for presumption claims has been \$227,340 for time-loss presumption claims and \$29,670 for medical only presumption claims.

For the law enforcement and paid firefighter classes, the average costs for presumption claims are significantly higher than non-presumption claims, 6.8 times higher for time-loss claims and 18.8 times higher for medical only claims. The average costs for presumption claims are significantly higher than claims from all other rate classes, 3.8x higher for time-loss claims and 21.5x higher for medical only claims.

On behalf of the Governor, we ask for your support on HB 1279. This concludes my testimony and I’d be happy to answer any questions you may have.

## PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1 after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 65-01-15, to amend and reenact section 65-01-15.1 and to create and enact section 65-01-15.2, relating to compensability of claims for full-time paid firefighters and law enforcement officers.

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

**SECTION 1.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15. Yearly documentation required for firefighter and law enforcement officer**

Except for benefits for an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement officer who uses tobacco is not eligible for the benefits provided under sections 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

**SECTION 2.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers**

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter.
3. a. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service and has successfully passed a medical examination which fails to reveal any evidence of such a condition. The five years of continuous service requirement may include full-time paid service outside of North Dakota. An employer shall



~~require~~ provide at no expense a medical examination upon employment, for any employee subject to this section.

b. After the initial medical examination, an employer shall ~~require~~ provide at no expense at least a periodic medical examination as follows: for one to ten years of service, every five years; for eleven to twenty years of service, every three years; and for twenty-one or more years of service, every year. The periodic medical examination, at a minimum, must consist of a general medical history of the individual and the individual's family; an occupational history including contact with and an exposure to hazardous materials, toxic products, contagious and infectious diseases, and to physical hazards; a physical examination including measurement of height, weight, and blood pressure; and laboratory and diagnostic procedures including a nonfasting total blood cholesterol test.

c. If the medical examination reveals that an employee falls into a recognized risk group, the employee must be referred to a qualified health professional for future medical examination.

d. If a medical examination produces a false positive result for a condition covered under this section, the organization shall consider the condition to be a compensable injury. In the case of a false positive result, neither the coverage of the condition nor the period of disability may exceed fifty-six days. This section does not affect an employee's responsibility to document that the employee has not used tobacco as required under section 65-01-15. Results of the examination must be used in rebuttal to a presumption afforded under this section.

4. For purposes of this section, "law enforcement officer" means an ~~person~~ individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

5. The presumption does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed for ten years or less, if the condition or impairment is diagnosed more than two years after the employment as a full-time paid firefighter or law enforcement officer ends. The presumption also does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed more than ten years, if the condition or impairment is diagnosed more than five years after the employment as a full-time paid firefighter or law enforcement officer ends.

**SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted as follows:

**65-01-15.2. Presumption of compensability for cardiac events of full-time paid firefighters and law enforcement officers**

1. A heart attack, stroke, vascular rupture or other similar cardiac event, shall be presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:
  - a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity or other emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture or other similar cardiac event commences not later than 48 hours after the full-time paid firefighter or law enforcement officer is engaged or participating in the activities described in paragraph a.
  - c. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. This section applies to any full-time paid firefighter or law enforcement officer who has completed less than five years of continuous service.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has successfully passed a medical examination which fails to reveal any evidence of such a condition.
4. For purposes of this section, "law enforcement officer" means a person who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

January 26, 2023  
House Political Subdivisions Committee  
HB 1279  
Rep. Donald W. Longmuir, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities and the Chiefs of Police Association of North Dakota. I am the deputy director and attorney for the North Dakota League of Cities. Both entities support adjusting the Workforce Safety and Insurance (WSI) coverage to make sure full-time paid firefighters and law enforcement officers are covered for cardiac events that occur as a result of their work.

City leaders and police chiefs recognize the work that full-time paid firefighters and law enforcement officers do to make sure that individuals are safe. For the sacrifices that law enforcement officers and full-time paid firefighters make, it is our duty to make sure that WSI appropriately covers their work-related injuries. Recently, a West Fargo police officer had a heart related incident occur on duty after a physical altercation at the jail. Under the current WSI laws, there was not coverage for the incident. This should not have happened, and we need to do better.

This incredibly unfortunate event in West Fargo has made everyone acutely aware of the hole in coverage that exists for full-time firefighters and law enforcement officers with less than 5 years of continuous service within the state. The way HB 1279 is currently written, it eliminates the 5-years of continuous service requirement for what is colloquially called presumption clause coverage. Under the presumption clause, due to the stress of their profession, full-time firefighters and law enforcement officers are covered for heart related incidents, whether they occur on duty or not. The presumption clause also provides coverage for cancer related claims for firefighters. After talking with the bill sponsors and other firefighter and law enforcement representatives, it became clear that this broad coverage may not be the best and most cost-effective solution to address this issue.

As an alternative, I am proposing an amendment. Under the amendment, full-time paid firefighters and law enforcement officers would be able to count full time paid service as a firefighter or law enforcement officer outside the state of North Dakota towards the five years necessary for presumption clause coverage. As you have heard over and over, North Dakota needs to recruit individuals from out of state to fill our open jobs. This is a positive step towards creating a friendly recruitment environment for full-time paid firefighters and law enforcement officers in our state.

Also under the amendment, a full-time paid firefighter and law enforcement officer would be covered for a heart attack, stroke, vascular rupture or other similar cardiac event when it occurs within 48 hours of strenuous physical law enforcement activity, fire suppression activity or other emergency response activity. The strenuous physical activity could also occur during a training exercise.

In order to qualify, the full-time firefighter or law enforcement officer will need to pass a medical screening that fails to reveal any evidence of a cardiac condition. Additionally, the full-time paid firefighter or law enforcement who uses tobacco does not qualify for the coverage unless he or she provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

As with the original bill, under the amendment, the full-time paid firefighter and law enforcement employer would be responsible for the costs related to the physical exams required for the coverage.

The North Dakota League of Cities and the Chiefs of Police Association of North Dakota, urges you to adopt the amendment and give the bill a DO PASS recommendation. Lets make sure that full-time paid firefighters and law enforcement officers have the protection they deserve in North Dakota.



Office of the Commission President

Thursday, January 26, 2023

**Re: DO PASS Recommendation for HB 1279**

Dear Political Subdivision Committee:

It is my honor to welcome every new officer to the West Fargo Police Department at West Fargo City Commission meetings. During my welcome, I make sure to thank their friends and families for sharing their loved one with the community. Coming from a law enforcement family and former law enforcement myself, I know the sacrifice families make with the job. As you watch your loved one walk out the door, you know tragedy could become part of your day.

HB 1279 came from a near tragic event that occurred in West Fargo. I stood in the hallways with Officer Tim Brown's family and his fellow officers in the hours after his on-duty heart attack. I heard the family take in the grave updates with less-than-optimistic outcomes and have to weigh decisions. I offered support to his fellow officers as they were no doubt reminded of the same situation just 5 months earlier when we lost Lt. Adam Gustafson. I thought about Officer Brown's family, who shared him with the community and were suffering the consequences of the generosity. Imagine if we had known in those moments that he would not be covered by Workforce Safety Insurance because of an arbitrary timeline?

In North Dakota, the legislature has worked hard to create the safest environment possible for our law enforcement and firefighters. You've developed close working relationships with the profession's leadership to understand the issues facing them and shape legislation that protects our communities. This work has made North Dakota a state that officers seek out to work in. The lack of support from the 5-year presumption clause does not align with this work.

It also threatens the vital recruitment work our agencies are conducting to fill vacant positions. Since Sept. 2020, the West Fargo Police Department has filled 8 positions from out of state. Experienced officers are seeking North Dakota as a place to work, but we now know they will be excluded by the presumption clause for 5 years even if they have it in other states. Our own Chief of Police, a 32-year veteran law enforcement officer, is currently not covered by WSI. With the competitive job market, details like this can become the difference and can lead to a decline in candidates.

My first oath is to the safety of my citizens and that is something I'm not willing to compromise on. I believe this extends to the safety and support my officers, firefighters and families receive. No one should have to risk their security to serve the community. To me, this is not a dollars and cents issue for the City. I cannot in good conscience ask these individuals to put their lives on the line on day 1, unless I know on day 1 they will have the full support they deserve.

For these reasons I urge a DO PASS on HB 1279.

Respectfully,

A handwritten signature in black ink, appearing to read "Bernie Dardis". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Bernie Dardis, Commission President  
City of West Fargo  
Email: [bernie.dardis@westfargond.gov](mailto:bernie.dardis@westfargond.gov)  
Phone: 701-515-5054



**RE: HB 1279 West Fargo City Commission Letter of Support**

Thursday, Jan. 26, 2023

To the members of the House Political Subdivisions Committee:

We write you today to express our support for HB 1279, relating to the presumption of compensability for firefighters and law enforcement officers.

On Oct. 30, 2021, West Fargo Police Officer Tim Brown suffered a nearly fatal heart attack while on duty. This occurred as Officer Brown was booking multiple felony suspects into the Cass County Jail. The arrest of the suspects included a physical confrontation and refusal to walk that forced Officer Brown to help carry the suspect out of an apartment complex to his squad car.

The West Fargo City Commission was shocked and saddened to learn that Officer Brown's Workforce Safety Insurance claim was denied due to legislation that implemented a 5-year presumption clause. North Dakota has always been known as a pro-public safety state and this legislation does not align with this value. How can we ask our law enforcement officers and firefighters to do a very dangerous job without properly covering them from day 1 when they are injured during the course of their duties?

We were lucky to have recruited Officer Brown from Memphis, Tennessee and gained his knowledge and experience. In fact, in the past 2.5 years the West Fargo Police Department has diversified the department by 8 out-of-state officers. These individuals seek out the supportive environment they find in North Dakota and help keep our department fully staffed to protect our community. But their prior years of experience are wiped clean as soon as they enter North Dakota. Even Police Chief Denis Otterness, a 32-year veteran law enforcement officer is currently not covered by WSI due to the presumption clause.

We ask our officers and firefighters to protect and serve us from day 1, yet we don't protect and serve them until day 1,865. HB 1279 is not just about Officer Brown. However, Officer Brown's story has sparked a conversation about how we care for our public safety personnel. We need to fix this problem.

For these reasons we ask you to support HB 1279 with a DO PASS recommendation.

Sincerely,

Bernie Dardis, Commission President  
Mark Simmons, Commissioner  
Brad Olson, Commissioner  
Mandy George, Commissioner  
Roben Anderson, Commissioner



**Testimony on HB 1279**  
**Presented to the House Political Subdivisions Committee**  
**Prepared by Daniel Fuller, West Fargo Fire Chief**  
**Thursday, January 26<sup>th</sup>, 2023**

1 Chairman Longmuir and members of the Political Subdivisions Committee, I am  
 2 Daniel Fuller, Chief of the Department, City of West Fargo Fire & Rescue and my  
 3 testimony is in support of House Bill 1279. As a full-time firefighter in the State of North  
 4 Dakota for the past sixteen years, I have had the peace of mind of knowing that any  
 5 catastrophic cerebral vascular accident, sudden heart attack, cardiac arrest, and  
 6 cancer diagnosis would be presumed to be job related given the extremely hazardous  
 7 environment I've worked in over the years. I was not aware of the five-year clause  
 8 relating to these protections, and in 2021, we were all reminded of the harsh reality of  
 9 working in public safety with the on-duty sudden cardiac arrest of Officer Brown in West  
 10 Fargo. The aftermath and impact on his financial health as he was fighting for his  
 11 physical health created a sense of urgency in getting the five-year period adjusted.  
 12

13 The amendments proposed fully address my concerns on those employees who  
 14 have less than five years of service. A catastrophic medical event can take place,  
 15 regardless of age or time on service, while on duty or up to 48 hours after duty.  
 16 Firefighting is routinely recognized as one of the most dangerous professions in the  
 17 world. Cardiac events account for up to 45% of firefighter line of duty deaths annually  
 18 in the United States. The risk is not solely with older firefighters, but rather all firefighters,  
 19 regardless of physical fitness and age. The heavy work firefighters complete, coupled  
 20 with the hot and hostile environments and adrenaline surge from the work puts  
 21 tremendous strain on the cardiac system, vascular system, and even the blood profile  
 22 of the firefighter. Not only are firefighters at risk of a heart attack cause by the  
 23 traditional thrombus (occlusion of a major artery) but also from cardiac arrhythmia  
 24 triggered by trauma and exposure to chemicals such as hydrogen cyanide during a



25 fire. Firefighters have a 100x greater risk of death after firefighting activities compared  
26 to station duties. As a profession, and on the local level, we try to modify our risk factors  
27 as much as possible. This includes increasing our physical fitness, prohibiting tobacco  
28 use among employees and addressing nutritional issues. Most impactful, we have a  
29 mandatory annual physical conducted in accordance with the provisions of the  
30 National Fire Protection Association 1582 Standard on Comprehensive Occupational  
31 Medical Programs for Fire Departments. Beyond the NFPA 1582 physicals, our  
32 department also has implemented a cardiac screening program that includes a stress  
33 test, CT, lipid and cardiac marker panel, as well as a vascular ultrasound. The cardiac  
34 screening is administered on a risk basis, with a minimum of every five years for all fire  
35 department employees.

36

37 Our career police officers and firefighters need to be covered for sudden,  
38 catastrophic cardiac or vascular events that occur on duty and up to 48 hours after  
39 duty, from their first day on the job. Our circumstance is uniquely different than the  
40 civilian population, our prevention programs are unique different, and as such, we  
41 deserve a unique solution to this challenge to make sure no other career police officer  
42 or career firefighter has to fight twice as hard to recover from these duty related  
43 incidents.

44

45 Mr. Chairman, I'll stand for any questions from the committee.

46

47

48 References:

49 National Fallen Firefighters Foundation. Emmitsburg, MD

50 First Responder Center for Excellence for Reducing Occupational Illness, Injuries, and

51 Deaths, Inc. Crofton, MD



# West Fargo Police Department

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**Testimony on HB1279 - Proposed Changes to WSI Presumption Clause Language  
Presented to the Political Subdivisions Committee  
Prepared by Chief Denis Otterness, West Fargo Police Department  
Thursday, January 26<sup>th</sup>, 2023**

1 Members of the Political Subdivisions Committee:

2 Good afternoon members of the Political Subdivisions Committee. I want  
3 to thank you for the opportunity to be here today. My name is Denis Otterness  
4 and I am the Chief of Police for the City of West Fargo. I have been a sworn law  
5 enforcement officer for 32 years and have served the citizens of West Fargo in  
6 my current capacity since September 2020.

7 I have been waiting nearly fifteen months for the opportunity to appear  
8 before you in support of all of the men and women of North Dakota law  
9 enforcement. I want to start by thanking the North Dakota legislature and the  
10 citizens of North Dakota for incorporating Presumption Clause language into  
11 Century Code. It is clear that the State of North Dakota appreciates well-  
12 documented medical research that reveals that cardiovascular disease,  
13 including heart attack, is a leading cause of death among our nation's law  
14 enforcement officers. The average age of a heart attack for law enforcement  
15 officers occurs at 46 years of age compared to age 65 in their civilian  
16 counterparts. Current research and data also suggest that law enforcement  
17 officers have a life expectancy that is over twenty-one years less than their  
18 civilian counterparts; and the years of potential life lost was 21 times larger than

19 those among the general population. Contributors to these troubling statistics  
20 are likely factors such as mental stressors, work schedules, shift work,  
21 hypervigilance and traumatic events.

22 Police officers are known to have a stress pattern that is often very  
23 different than what is experienced by individuals in the civilian sector. Research  
24 involving more than 4,500 United States law enforcement officers from 1984 to  
25 2010 produced data revealing that the risk of sudden cardiac death was 34-69  
26 times higher during restraints and altercations, 32-51 times higher during pursuits,  
27 20-23 times higher during physical and reality-based training, and 6-9 times  
28 higher during medical and rescue operations. Studies have further concluded  
29 that there is a definitive correlation between chronic stress and the overall  
30 health of law enforcement officers, specifically as it relates to cardiac health.

31 I share these statistics because the West Fargo Police Department has  
32 been significantly impacted by cardiac events over the last 2 years. On May  
33 18<sup>th</sup>, 2021 the West Fargo Police Department lost Adam Gustafson, a 41 year old  
34 Lieutenant with a wife and three young children. Lieutenant Gustafson suffered  
35 a cardiac event in his squad car in the underground garage of our police  
36 headquarters and passed away.

37 Fast forward five months for the reason we are all here today. On  
38 October 30, 2021 officers from the West Fargo Police Department located two  
39 suspects that were wanted in connection to a recent shooting in a neighboring  
40 jurisdiction. Contact was made with both subjects in an apartment complex  
41 and their identities confirmed. One of the suspects resisted arrest when officers  
42 attempted to take her into custody. After a physical confrontation officers were  
43 able to take her into custody. She then refused to walk to the officer's squad  
44 car for transport causing two officers to have to physically carry her out of the



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45 apartment complex out to the awaiting squad car. Officer Tim Brown was one  
46 of those officers.

47 Both suspects were transported to the Cass County Jail to be booked on  
48 their arrest warrants for Aggravated Assault and for the previously mentioned  
49 defendant, a new charge of Preventing Arrest. During the booking process  
50 Officer Tim Brown went into cardiac arrest and collapsed on the booking room  
51 floor. Unresponsive and not breathing Deputies from the Cass County Sheriff's  
52 Office began immediate life-saving measures.

53 Officer Brown was transported to a local hospital, stabilized, and  
54 eventually life-flighted to Omaha, Nebraska for additional cardiac care. I am  
55 happy to report that Officer Tim Brown not only survived this incident, he is back  
56 to work full time as a police officer for the City of West Fargo, and here to share  
57 his story with you today.

58 What followed is an unconscionable set of events that started with WSI  
59 denying Officer Brown's work-related medical claim. Officer Tim Brown had only  
60 been employed as a police officer for the City of West Fargo for ten months  
61 when this event occurred and accordingly, WSI denied his medical claim  
62 because of the current Presumption Clause language. This created a need to  
63 run all of Officer Brown's medical bills through his personal insurance. As you can  
64 likely predict, Officer Brown's personal insurance denied portions of his claim, to  
65 include his life-flight to Nebraska, creating unnecessary stress and a \$70,000 plus

66 financial hardship on Officer Brown and his family. While this was all eventually  
67 corrected it was all avoidable.

68 Because of this incident, coupled with the research and data, I am here  
69 today in strong support of HB1279 and the elimination of the current five-year  
70 waiting requirement to cover police officers work-related cardiac events. All  
71 Officer Brown did on October 30, 2021 is go out and do exactly what we ask all  
72 of our state law enforcement to do.....his job. He was not negligent and this  
73 was not self-inflicted. He was engaged in the arrest of two violent felons wanted  
74 in connection to a shooting, an event that was tremendously stressful and  
75 dangerous without resisting subjects.

76 We cannot continue to ask law enforcement officers to do a very  
77 dangerous and challenging job without properly covering them when they are  
78 injured during the course of their duties. Officer Brown and the City of West  
79 Fargo did everything required by Century Code and P.O.S.T. Board rules prior to  
80 his hiring. Ten months before this incident Officer Brown was medically cleared  
81 without restrictions after a full and complete pre-employment physical that  
82 included cardiac screening.

83 Prior to closing I want to take a moment to address the Fiscal Note  
84 prepared by staff at WSI. At face value, the document does exactly what WSI  
85 has expressed they would do. Because of the work I have been doing  
86 surrounding this legislation, I have been hearing for months that WSI has planned  
87 to provide data to the legislature that will support a large increase in WSI  
88 premiums to local municipalities if this legislation passes. What this document  
89 doesn't contain is any factual data relevant to this legislative issue. There is no  
90 data to support that the monetary facts provided by WSI are related to police  
91 officers working with zero to five years of service. HB1279 is simply asking to



# West Fargo Police Department

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92 eliminate the five-year waiting period for officers with zero to five years of service  
93 and cover their work-related cardiac claims.

94 WSI's claim that eliminating the five-year waiting period will "broaden the  
95 number of claims" is not supported by any data, it is speculation and  
96 conjecture. In WSI's statement projecting a broad increase in the number of  
97 claims WSI also stated "the extent (of the increase) is unclear as we don't have  
98 access to an appropriate base of historical experience to use in deriving the  
99 estimates". I submit to you the only agency that has, or should have this  
100 information, is WSI. If there is/was no "base to support the historical experience  
101 to use in deriving the estimates" why was the five-year waiting period ever  
102 included in the original legislation.

103 All work-related injury claims, including those that have been denied  
104 under the five-year waiting period, are filed through one single agency, WSI. If  
105 WSI doesn't have the information on the number of claims they have denied I'm  
106 not sure who would. I find it disingenuous that they provided data for claims the  
107 Presumption Clause already covers but won't provide facts for the claims they  
108 have denied under this statute. They certainly have one case they could have  
109 provided, Officer Tim Brown's.

110 As a result of this incident I have attempted to speak to every Sheriff and  
111 Police Chief in this State. I have not heard from one Sheriff or Police Chief that

112 has experienced the same set of facts or circumstances as we and the Brown  
113 family has, but I strongly believe that one case is too many.

114           There is little doubt that if the State of North Dakota continues to require a  
115 five-year waiting period before it covers police officers work related cardiac  
116 claims, it could have a detrimental effect on recruiting police officers from out-  
117 of-state. Because the State of North Dakota remains steadfast in its support for  
118 law enforcement we have seen a number of out-of-state applicants looking to  
119 gain employment and fill some of the many vacancies that exist statewide.  
120 Many of the Chiefs and Sheriffs I have spoken to are concerned that if changes  
121 aren't made to allow coverage for officers immediately upon their employment,  
122 we could begin to see those out-of-state numbers decline. To this point, since  
123 beginning my tenure with the West Fargo Police Department in September,  
124 2020, I have hired eight police officers from out-of-state, to include Officer Tim  
125 Brown who joined us after serving the Memphis, TN. Police Department.

126           Finally, as a 32-year veteran law enforcement officer and Chief of Police, I  
127 stand before you today not covered by WSI. I strongly urge you to support law  
128 enforcement and their families and the changes requested in HB1279 and will  
129 stand for any questions you may have.



Written Testimony HB1279  
**68<sup>th</sup> Legislative Assembly**  
House Political Subdivisions  
January 26, 2023

WRITTEN TESTIMONY OF:

**Major Aaron Hummel, North Dakota Highway Patrol**

Chairman Longmuir, and members of the committee, my name is Aaron Hummel and I serve as chief of staff for the North Dakota Highway Patrol. The Highway Patrol supports the passage of HB 1279 for a couple of reasons. First, by removing the five-year requirement language, coverage provided under NDCC 65-01-15.1 is effective at the commencement of a full-time career of a covered employee. Second, removal of the requirement also provides recruitment incentive for law enforcement officers or fire-fighters who chose to accept employment in North Dakota from another state. Regarding additional changes this bill makes, it may be beneficial for the committee to know that there is neither a negative or positive impact to the Highway Patrol. Specifically, to the topic of requiring an employer to provide a medical exam at no expense, the Highway Patrol has funding for these exams and does already meet the requirements this bill would add.



Testimony Presented on HB 1279 to the  
House Political Subdivisions Committee  
Representative Donald W. Longmuir

By

Steven J. Dirksen, Fire Chief  
City of Fargo

January 26, 2023

This statement expresses the support of the City of Fargo to House Bill 1279, relating to the presumption of compensability for firefighters and law enforcement officers.

Good Afternoon Chairman Longmuir and members of the House Political Subdivisions committee. I want to thank you for the opportunity to be here today. I also want to thank the Sponsor and Co-Sponsors for bringing this important piece of legislation forward. My name is Steve Dirksen; I have the honor and pleasure to serve as the Fire Chief for the City of Fargo. I have been a firefighter for the past 34 years and have served for the past 11 ½ years in my current role in the City of Fargo.

HB1297 proposes to amend Section 65-01-15.1 by removing from subsection 3 (a) the requirement for a firefighter or law enforcement officer to have five years of continuous service with a fire department or law enforcement agency in North Dakota. An additional change in this subsection is to remove the word "require" and replace with the employer needs to "provide at no expense," a medical examination upon employment for any employee subject to this section.

Subsection 3 (b) also spells out the removal of the word "require" and replace with the employer needs to "provide at no expense". An additional change in this section is the removal of "including a nonfasting total blood cholesterol test" and replacing it with "indicating cardiovascular health to a reasonable degree of medical certainty".

The other change is the definition in subsection 4, replacing "a person" with "an individual".

Individuals who wish to be employed as a City of Fargo firefighter are given a myriad of tests that include a psychological, polygraph examination, background checks (to include criminal), mask fit testing as well as a comprehensive medical physical exam.

The medical physical exam follows the standards set forth by the National Fire Protection Association (NFPA) 1582: Standard on Comprehensive Occupational Medical Program for Fire Departments. NFPA 1582 Chapter 5 identifies 14 essential job tasks required of structural firefighters. Those tasks range from wearing self-contained breathing apparatus while pulling fire hose, crawling, lifting and carrying heavy objects,

2. Urine
3. Audiology
4. Spirometry
5. Chest X-ray – baseline then as medically indicated
6. ECG's – baseline then annually at age 40 or as clinically indicated.
7. Risk Stratification –
  - a. Asymptomatic firefighters at age 40 for their 2-year or 10-year risks of ASCVD
  - b. Asymptomatic firefighters younger than 40 known to be at high risk for ASCVD shall be assessed for coronary artery disease.
  - c. The 2-year Framingham risk tables or the 10-year heart risk calculator created by the American College of Cardiology/American Heart Association (ACC/AHA) shall be used to generate a 2 year or 10 year risk of ASCVD.
  - d. If ASCVD scores are high symptom limiting exercise stress testing with imaging is to be ordered.
8. Mammography
9. Immunizations and Infectious Disease
10. Post-Exposure Bloodborne Pathogen Testing
11. HIV Testing
12. Heavy Metal Evaluation
13. Colon Cancer Screening
14. Prostate Cancer Screening
15. Lung Cancer Screening
16. Cervical Cancer Screening
17. Testicular Cancer Screening
18. Bladder Cancer Screening
19. Oral Cancer Screening
20. Thyroid Cancer Screening
21. Skin Cancer Screening
22. Sleep Disturbance Screening
23. Behavioral Health Screening

The City of Fargo provides this level of medical surveillance to provide our employees with a baseline picture of their current level of medical wellness. Through the annual examinations, we have had several members self-report a condition was identified early, even before the individual became symptomatic. As an employer, the City of Fargo desires to provide a high level of yearly medical surveillance to ensure that our firefighters can have long careers and healthy retirements.

Firefighting is a dangerous profession. There are known risks with this profession but there are numerous events that we cannot prepare for. Sudden cardiac arrest, vascular embolism due to vessel compression, exposure to toxins due to equipment failure, and there are many more. These issues have occurred in firefighters at the beginning of

Testimony Presented on HB 1279 to the

House Political Subdivisions Committee  
Representative Donald W. Longmuir, Chairman

Dr. Timothy Mahoney, Mayor, City of Fargo  
Commissioner Denise Kolpack, City of Fargo

January 26, 2023

Dear Members of the House Political Subdivisions Committee:

On behalf of the City of Fargo, we are writing collectively to you today in support of HB 1279. One of the top priorities we share as local elected officials is to ensure that our public safety employees are provided with a high-level medical physical surveillance program. In the City of Fargo, we care for the well-being and safety of our dedicated public safety servants, and we believe HB 1279 will further support this care for our first responders.

Annually, the City of Fargo invests significant funds to ensure the firefighters we hire can meet the rigorous physical and mental demands of the profession. The firefighters are provided – at no expense – a medical and mental evaluation that meets the nationally recognized standards established by the National Fire Protection Association Standard 1582. After the employees complete their probationary period, they are provided an annual evaluation that far exceeds the requirements set forth in North Dakota Century Code. The examination is a comprehensive “head to toe” evaluation of the total health of the employee. The physical examination is augmented by a number of ancillary tests that range from blood tests, to ECG’s, chest x-rays, cancer screenings, to sleep disturbance and behavioral health screenings.

But the one thing we cannot test for, and have no way to predict, is sudden cardiac arrest due to trauma, vascular embolism due to vessel compression, exposure to immediate dangers to life, and health toxins due to sudden and catastrophic equipment failure. These types of situations have occurred in the fire service to firefighters at the beginning of their careers through the end. If there is a way to prevent these events from happening, we would most assuredly put processes in place to stop them.

The City of Fargo takes great steps to ensure that we hire public safety employees who are physically capable to complete the tasks required of a firefighter. We work to ensure there is continual surveillance of physical health. By removing the five-year waiting period, we are providing the coverage for those employees who suffer a sudden medical event because of their employment. It is imperative that we take care of our public safety employees who put themselves in harm’s way to protect our communities.

23.0029.02001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1279**

Introduced by

Representatives Roers Jones, Heinert, Jonas, Louser, Schauer, Thomas

Senators Barta, Larson, Lee

1 A BILL ~~for an Act to amend and reenact section 65-01-15.1 of the North Dakota Century Code,~~  
 2 ~~relating to the presumption of compensability for firefighters and law enforcement officers.~~for an  
 3 Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to  
 4 compensability for cardiac events for firefighters and law enforcement officers; and to amend  
 5 and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to  
 6 documentation required for firefighters and law enforcement officers and the presumption of  
 7 compensability for firefighters and law enforcement officers.

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

9 ~~SECTION 1. AMENDMENT.~~ Section 65-01-15.1 of the North Dakota Century Code is  
 10 amended and reenacted as follows:

11 ~~65-01-15.1. Presumption of compensability for certain conditions of full-time paid~~  
 12 ~~firefighters and law enforcement officers.~~

13 ~~1. Any condition or impairment of health of a full-time paid firefighter or law enforcement~~  
 14 ~~officer caused by lung or respiratory disease, hypertension, heart disease, or an~~  
 15 ~~exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the~~  
 16 ~~course of employment, or occupational cancer in a full-time paid firefighter, is~~  
 17 ~~presumed to have been suffered in the line of duty. The presumption may be rebutted~~  
 18 ~~by clear and convincing evidence the condition or impairment is not work-related.~~

19 ~~2. As used in this section, an occupational cancer is one which arises out of employment~~  
 20 ~~as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or~~  
 21 ~~carcinogenic, poisonous, toxic, or chemical substances while in the performance of~~  
 22 ~~active duty as a full-time paid firefighter.~~

23 ~~3. a. A full-time paid firefighter or law enforcement officer is not eligible for the benefit~~  
 24 ~~provided under this section unless that full-time paid firefighter or law~~

1 enforcement officer has completed five years of continuous service and has  
2 successfully passed a medical examination which fails to reveal any evidence of  
3 such a condition. An employer shall ~~require~~ provide at no expense, a medical  
4 examination upon employment, for any employee subject to this section.

5 ~~b.~~ After the initial medical examination, an employer shall ~~require~~ provide at no  
6 expense, at least a periodic medical examination as follows: for one to ten years  
7 of service, every five years; for eleven to twenty years of service, every three  
8 years; and for twenty-one or more years of service, every year. The periodic  
9 medical examination, at a minimum, must consist of a general medical history of  
10 the individual and the individual's family; an occupational history including contact  
11 with and an exposure to hazardous materials, toxic products, contagious and  
12 infectious diseases, and to physical hazards; a physical examination including  
13 measurement of height, weight, and blood pressure; and laboratory and  
14 diagnostic procedures including a nonfasting total blood cholesterol test indicating  
15 cardiovascular health to a reasonable degree of medical certainty.

16 ~~c.~~ If the medical examination reveals that an employee falls into a recognized risk  
17 group, the employee must be referred to a qualified health professional for future  
18 medical examination.

19 ~~d.~~ If a medical examination produces a false positive result for a condition covered  
20 under this section, the organization shall consider the condition to be a  
21 compensable injury. In the case of a false positive result, neither the coverage of  
22 the condition nor the period of disability may exceed fifty-six days.

23 ~~e.~~ This section does not affect an employee's responsibility to document that the  
24 employee has not used tobacco as required under section 65-01-15. Results of  
25 the examination must be used in rebuttal to a presumption afforded under this  
26 section.

27 ~~4.~~ For purposes of this section, "law enforcement officer" means a person an individual  
28 who is licensed to perform peace officer law enforcement duties under chapter 12-63  
29 and is employed full time by the bureau of criminal investigation, the game and fish  
30 department, the state highway patrol, the parole and probation division, the North  
31 Dakota state university police department, the North Dakota state college of science

1 ~~police department, the university of North Dakota police department, a county sheriff's-~~  
2 ~~department, a city police department, or the parks and recreation department pursuant~~  
3 ~~to section 55-08-04.~~

4 ~~5. The presumption does not include a condition or impairment of health of a full-time~~  
5 ~~paid firefighter or law enforcement officer, who has been employed for ten years or~~  
6 ~~less, if the condition or impairment is diagnosed more than two years after the~~  
7 ~~employment as a full-time paid firefighter or law enforcement officer ends. The~~  
8 ~~presumption also does not include a condition or impairment of health of a full-time~~  
9 ~~paid firefighter or law enforcement officer, who has been employed more than ten~~  
10 ~~years, if the condition or impairment is diagnosed more than five years after the~~  
11 ~~employment as a full-time paid firefighter or law enforcement officer ends.~~

12 **SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **65-01-15. Yearly documentation required for firefighter and law enforcement officer.**

15 Except for benefits for an exposure to a bloodborne pathogen as defined by section  
16 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement  
17 officer who uses tobacco is not eligible for the benefits provided under ~~section~~sections  
18 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer  
19 provides yearly documentation from a health care provider which indicates the full-time paid  
20 firefighter or law enforcement officer has not used tobacco for the preceding two years.

21 **SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **65-01-15.1. Presumption of compensability for certain conditions of full-time paid**  
24 **firefighters and law enforcement officers.**

- 25 1. Any condition or impairment of health of a full-time paid firefighter or law enforcement  
26 officer caused by lung or respiratory disease, hypertension, heart disease, or an  
27 exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the  
28 course of employment, or occupational cancer in a full-time paid firefighter, is  
29 presumed to have been suffered in the line of duty. The presumption may be rebutted  
30 by clear and convincing evidence the condition or impairment is not work-related.

1       2. As used in this section, an occupational cancer is one which arises out of employment  
2       as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or  
3       carcinogenic, poisonous, toxic, or chemical substances while in the performance of  
4       active duty as a full-time paid firefighter.

5       3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit  
6       provided under this section unless that full-time paid firefighter or law enforcement  
7       officer has completed five years of continuous service and has successfully passed a  
8       medical examination which fails to reveal any evidence of such a condition. The five  
9       years of continuous service requirement may include full-time paid service outside the  
10      state. An employer shall ~~require~~provide at no expense a medical examination upon  
11      employment, for any employee subject to this section.

12      a. After the initial medical examination, an employer shall ~~require~~provide at no  
13      expense at least a periodic medical examination as follows: for one to ten years  
14      of service, every five years; for eleven to twenty years of service, every three  
15      years; and for twenty-one or more years of service, every year. The periodic  
16      medical examination, at a minimum, must consist of a general medical history of  
17      the individual and the individual's family; an occupational history including contact  
18      with and an exposure to hazardous materials, toxic products, contagious and  
19      infectious diseases, and to physical hazards; a physical examination including  
20      measurement of height, weight, and blood pressure; and laboratory and  
21      diagnostic procedures including a nonfasting total blood cholesterol test.

22      b. If the medical examination reveals that an employee falls into a recognized risk  
23      group, the employee must be referred to a qualified health professional for future  
24      medical examination.

25      c. If a medical examination produces a false positive result for a condition covered  
26      under this section, the organization shall consider the condition to be a  
27      compensable injury. In the case of a false positive result, neither the coverage of  
28      the condition nor the period of disability may exceed fifty-six days. This section  
29      does not affect an employee's responsibility to document that the employee has  
30      not used tobacco as required under section 65-01-15. Results of the examination  
31      must be used in rebuttal to a presumption afforded under this section.

1 4. For purposes of this section, "law enforcement officer" means ~~a person~~an individual  
2 who is licensed to perform peace officer law enforcement duties under chapter 12-63  
3 and is employed full time by the bureau of criminal investigation, the game and fish  
4 department, the state highway patrol, the parole and probation division, the North  
5 Dakota state university police department, the North Dakota state college of science  
6 police department, the university of North Dakota police department, a county sheriff's  
7 department, a city police department, or the parks and recreation department pursuant  
8 to section 55-08-04.

9 5. The presumption does not include a condition or impairment of health of a full-time  
10 paid firefighter or law enforcement officer, who has been employed for ten years or  
11 less, if the condition or impairment is diagnosed more than two years after the  
12 employment as a full-time paid firefighter or law enforcement officer ends. The  
13 presumption also does not include a condition or impairment of health of a full-time  
14 paid firefighter or law enforcement officer, who has been employed more than ten  
15 years, if the condition or impairment is diagnosed more than five years after the  
16 employment as a full-time paid firefighter or law enforcement officer ends.

17 **SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted  
18 as follows:

19 **65-01-15.2. Presumption of compensability for cardiac events of full-time paid**  
20 **firefighters and law enforcement officers.**

21 1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to  
22 be a compensable injury when a full-time paid firefighter or law enforcement officer:

23 a. Engages in a situation involving strenuous physical law enforcement activity, fire  
24 suppression activity, or emergency response activity, or participates in a training  
25 exercise involving strenuous physical activity; and

26 b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs  
27 no later than forty-eight hours after the full-time paid firefighter or law  
28 enforcement officer engaged or participated in the activity listed under  
29 subdivision a.

30 2. The presumption under subsection 1 may be rebutted by clear and convincing  
31 evidence the condition or impairment was not work-related.



- 1        3. This section applies to any full-time paid firefighter or law enforcement officer who has  
2        less than five years of continuous service.
- 3        4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit  
4        provided under this section unless the full-time paid firefighter or law enforcement  
5        officer has successfully passed a medical examination that failed to reveal any  
6        evidence of a cardiovascular condition.
- 7        5. For purposes of this section, "law enforcement officer" means an individual who is  
8        licensed to perform peace officer law enforcement duties under chapter 12-63 and is  
9        employed full time by the bureau of criminal investigation, the game and fish  
10       department, the state highway patrol, the parole and probation division, the North  
11       Dakota state university police department, the North Dakota state college of science  
12       police department, the university of North Dakota police department, a county sheriff's  
13       department, a city police department, or the parks and recreation department pursuant  
14       to section 55-08-04.

23.0029.02002  
Title.

Prepared by the Legislative Council staff for  
Representative Roers Jones  
January 26, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-01-15.2 of the North Dakota Century Code, relating to compensability for cardiac events for firefighters and law enforcement officers; to amend and reenact sections 65-01-15 and 65-01-15.1 of the North Dakota Century Code, relating to documentation required for firefighters and law enforcement officers and the presumption of compensability for firefighters and law enforcement officers; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15. Yearly documentation required for firefighter and law enforcement officer.**

Except for benefits for an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement officer who uses tobacco is not eligible for the benefits provided under ~~sections~~ sections 65-01-15.1 and 65-01-15.2, unless the full-time paid firefighter or law enforcement officer provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

**SECTION 2. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.**

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.
2. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter.
3. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service

**SECTION 3.** Section 65-01-15.2 of the North Dakota Century Code is created and enacted as follows:

**65-01-15.2. Presumption of compensability for cardiac events of full-time paid firefighters and law enforcement officers.**

1. A heart attack, stroke, vascular rupture, or other similar cardiac event, is presumed to be a compensable injury when a full-time paid firefighter or law enforcement officer:
  - a. Engages in a situation involving strenuous physical law enforcement activity, fire suppression activity, or emergency response activity, or participates in a training exercise involving strenuous physical activity; and
  - b. The heart attack, stroke, vascular rupture, or other similar cardiac event occurs no later than forty-eight hours after the full-time paid firefighter or law enforcement officer engaged or participated in the activity listed under subdivision a.
2. The presumption under subsection 1 may be rebutted by clear and convincing evidence the condition or impairment was not work-related.
3. This section applies to any full-time paid firefighter or law enforcement officer who has less than five years of continuous service.
4. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless the full-time paid firefighter or law enforcement officer has successfully passed a medical examination that failed to reveal any evidence of a cardiovascular condition.
5. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full-time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

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

Renumber accordingly



Written Testimony HB1279  
**68<sup>th</sup> Legislative Assembly**  
**Senate Workforce Development**  
February 2, 2023

WRITTEN TESTIMONY OF:

**Major Aaron Hummel, North Dakota Highway Patrol**

Chairman Wobbema, and members of the committee, my name is Aaron Hummel and I serve as chief of staff for the North Dakota Highway Patrol. The Highway Patrol supports the passage of HB 1279 as amended in the House Political Subdivisions committee for a couple of reasons. First, the addition of the ability to meet the five-year service requirement by using employment outside the state of North Dakota is an incentive to attract out of state talent to North Dakota. Second, the addition of language providing coverage related to an incidental cardiac event even if the individual has less than five years of service is a positive step and provides peace of mind to the individual and their families. The language providing coverage retroactive to 2021 is a positive step to show the state's dedication to providing support in the particular examples that were provided in testimony out of West Fargo. Regarding additional changes this bill makes, it may be beneficial for the committee to know that there is neither a negative or positive impact to the Highway Patrol. Specifically, to the topic of requiring an employer to provide a medical exam at no expense, the Highway Patrol has funding for these exams and does already meet the requirements this bill would add.

HB 1279 – WSI Presumption for Law Enforcement & Firefighters  
Senate Workforce Development  
February 2, 2023  
Rep. Shannon Roers Jones

Every day our law enforcement officers and firefighters put their lives at risk to protect the citizens of North Dakota. Sometimes that risk means making the ultimate sacrifice, but even when the risks aren't quite as grave, they are still a significant burden for our emergency personnel, their families, and their departments.

One community has been hit harder than most over the last couple of years. While we all remember the officer who was lost in West Fargo, it's likely that fewer people recall the story of Officer Tim Brown. The fortunate part of Officer Brown's story is that he survived an on-duty heart attack, but the real challenges with his experience started after Officer Brown was past the physical danger of his experience.

Officer Brown's unfortunate situation brought to light significant shortcomings in the Workforce Safety Insurance policies that are intended to protect our officers and firefighters. Now, I want Officer Brown to be the one to tell his story. I want his mayor to talk about the impact to their community, so I'm going to limit my comments to the current state of the law and the changes we're requesting.

Currently a full-time firefighter or law enforcement officer must work continuously for at least 5 years, in the state of North Dakota, before they have the presumptive protection offered in North Dakota. There is no coverage for an officer who transfers from another state, or for an individual who may have been a firefighter in the military before joining a local department.

The bill in front of you would change 4 elements. First it would allow full-time employment as a firefighter or law enforcement officer, outside of North Dakota, to be credited toward the 5-year service requirement for coverage.

Second, it would provide day-one protection for anyone who suffers a heart attack, stroke, vascular rupture, or other similar cardiac event within 48 hours of strenuous physical law enforcement or firefighting activity, including training.

We believe there are strong policy considerations - including the additional risk these public servants take upon themselves, as well as the difficulty in recruiting new employees to these professions that warrant modifying the requirement for 5 years of service before they are protected.

The next change is less significant, but during our research process it became apparent that there may be a few smaller jurisdictions that have their employees pay for the required health testing. The state requires both pre-employment and ongoing medical examinations as part of their requirements for coverage and consequently it is not appropriate for any department to require their employee or potential employee to bear the costs of these exams.

The final change in the bill is on page 2, lines 23 and 24, where "nonfasting total blood cholesterol test" was changed to "diagnostic procedures indicating cardiovascular health to a reasonable degree of medical certainty". The reason for this change, is because after consulting with medical professionals it was discovered that the cholesterol test was not a good indicator of cardiovascular health. Additionally, as

medical tests and technology are always evolving, it was determined that it is best to leave this language open to the discretion of the medical professionals.

Like any bill, we have had some hurdles to work through. While we want to protect our officers and firefighters to the greatest extent possible, additional coverage comes at a cost. The cities, and ultimately the taxpayers must cover the costs of additional protection, and some of the numbers coming from WSI estimates were pretty alarming.

We have had an amazing team working to move this bill forward with no opposition, and amazing speed and so I must thank several people. (in no particular order 😊 )

First, Attorney Stephanie Dassinger Engebretson from the ND League of Cities. She spent a great deal of time working with all the parties involved to craft an amendment that brought down the cost of the insurance, while still providing the added protection for our officers and firefighters.

Second, Art Thompson from WSI who reached out to me last weekend to ask if we could make the coverage retroactive. WSI wants to cover Officer Brown's claim and with Officer Brown's hearing date fast approaching we worked with House and Senate leadership to figure out how we could get him coverage before his hearing.

Also, to the House Political Subdivisions committee for their extra work to come in on Tuesday, a non-committee day for them, to add the amendment with the retroactivity clause, so we could vote on it yesterday, and have the hearing in front of your committee today.

Along with them, we need to thank the committee staff, the front desk staff, and legislative council for their extra efforts to draft amendments, engross the bill, and circulate the bill for needed signatures as quickly as possible.

Because everyone is so committed to getting this passed as quickly as possible, we've even encountered a few happy-challenges. While we were preparing everyone who will testify behind me for a hearing next Wednesday, we were surprised to learn around 3:30 yesterday afternoon that our hearing would be today! So I need to thank Officer Tim Brown, and all of the other bill supporters who cleared their schedules so they could travel from Fargo, West Fargo, and other parts of the state to testify. Please know there are more who would like to be here today but sometimes plans can't be changed in 23 and a half hours.

And I want to proactively thank you committee members, staff, and all the senate for what I hope will be quick, yet diligent action on this bill.

We have made this bill retroactive and added the emergency clause to help WSI cover Officer Tim Brown, and during the research for this bill, we learned there are two other firefighters, one from Fargo and one from West Fargo who will also be protected with the retroactivity. We want to get this coverage in place as soon as possible so we don't have to have another one of our firefighters or officers have a medical emergency between now and August 1<sup>st</sup> and have them go through the stressful ordeal that Officer Brown had to endure.

I ask that the committee please listen to all of the testimony today and understand we need to send an *unamended* bill to the Senate floor with a strong DO PASS recommendation as a statement of our support for all of the law enforcement officers and firefighters who protect and serve our state every day.

February 2, 2023  
Senate Workforce Development  
HB 1279  
Sen. Wobbema, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities and the Chiefs of Police Association of North Dakota. I am the deputy director and attorney for the North Dakota League of Cities. Both entities appear in enthusiastic support of HB 1279 and ask for a Do Pass recommendation on the bill.

City leaders and police chiefs recognize the work that full-time paid firefighters and law enforcement officers do to make sure that individuals are safe. For the sacrifices that law enforcement officers and full-time paid firefighters make, it is our duty to make sure that WSI appropriately covers their work-related injuries. Recently, a West Fargo police officer had a heart related incident occur on duty after a physical altercation. Under the current WSI laws, there was not coverage for the incident. This should not have happened, and passing HB 1279, in its current form, allows the state of North Dakota to correct what has happened to the law enforcement officer from West Fargo and make sure that our law enforcement officers and full-time paid firefighters are provided the appropriate coverage for heart-related workplace injuries.

This incredibly unfortunate event in West Fargo has made everyone acutely aware of the hole in coverage that exists for full-time firefighters and law enforcement officers with less than 5 years of continuous service within the state. Under HB 1279, full-time paid firefighters and law enforcement officers would be able to count full time paid service as a firefighter or law enforcement officer outside the state of North Dakota towards the five years necessary for presumption clause coverage. As you have heard over and over, North Dakota needs to recruit individuals from out of state to fill our open jobs. This is a positive step towards creating a friendly recruitment environment for full-time paid firefighters and law enforcement officers in our state.

Also under HB 1279, a full-time paid firefighter and law enforcement officer would be covered for a heart attack, stroke, vascular rupture or other similar cardiac event when it occurs within 48 hours of strenuous physical law enforcement activity, fire suppression activity or other emergency response activity. The strenuous physical activity could also occur during a training exercise.

In order to qualify, the full-time firefighter or law enforcement officer will need to pass a medical screening that fails to reveal any evidence of a cardiac condition. Additionally, the full-time paid firefighter or law enforcement officer who uses tobacco does not qualify for the coverage unless he or she provides yearly documentation from a health care provider which indicates the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years.

Additionally, HB 1279 makes it clear that the full-time paid firefighter and law enforcement employers would be responsible for the costs related to the physical exams required for the coverage.

Finally, the HB 1279 contains a clause for retroactive application and an emergency clause. This will allow WSI to cover the injuries suffered by the law enforcement officer from West Fargo and make sure to close the gap in coverage in an expedient manner.

The North Dakota League of Cities and the Chiefs of Police Association of North Dakota, respectfully request a Do Pass recommendation on HB 1279.





**Testimony on HB 1279**  
**Presented to the Senate Workforce Development Committee**  
**Prepared by Daniel Fuller, West Fargo Fire Chief**  
**Thursday, February 2<sup>nd</sup>, 2023**

1 Chairman Wobbema and members of the Workforce Development Committee,  
2 I am Daniel Fuller, Chief of the Department, City of West Fargo Fire & Rescue and my  
3 testimony is in support of House Bill 1279. As a full-time firefighter in the State of North  
4 Dakota for the past sixteen years, I have had the peace of mind of knowing that any  
5 catastrophic cerebral vascular accident, sudden heart attack, cardiac arrest, and  
6 cancer diagnosis would be presumed to be job related given the extremely hazardous  
7 environment I've worked in over the years. I was not aware of the five-year clause  
8 relating to these protections, and in 2021, we were all introduced of the harsh reality of  
9 working in public safety with the on-duty sudden cardiac arrest of Officer Brown in West  
10 Fargo. The aftermath and impact on his financial health as he was fighting for his  
11 physical health created a sense of urgency in getting the five-year time frame  
12 adjusted.

13  
14 As the Century Code stands today, roughly 90% of our career firefighters in West  
15 Fargo are not covered by the presumption clause and risk the same challenges Officer  
16 Brown has had to endure after recovering from his sudden cardiac arrest. With our  
17 continued growth and addition of career firefighters over the next four years, with no  
18 change to Century Code, we'll have at least 40% of our career workforce not covered  
19 annually through 2032.

20  
21 The amendments proposed fully encapsulate my concerns on those employees  
22 who have less than five years of service, as well as addressing past challenges in a  
23 retroactive manner. A catastrophic medical event can take place, regardless of age  
24 or time on service, while on duty or up to 48 hours after duty. Firefighting is routinely

25 recognized as one of the most dangerous professions in the world. Cardiac events  
26 account for up to 45% of firefighter line of duty deaths annually in the United States. The  
27 risk is not solely with older firefighters, but rather all firefighters, regardless of physical  
28 fitness and age. The heavy work firefighters complete, coupled with the hot and hostile  
29 environments and adrenaline surge from the work puts tremendous strain on the  
30 cardiac system, vascular system, and even the blood profile of the firefighter. Not only  
31 are firefighters at risk of a heart attack cause by the traditional thrombus (occlusion of a  
32 major artery) but also from cardiac arrhythmia caused from trauma and exposure to  
33 chemicals such as hydrogen cyanide during a fire.

34

35 Firefighters have a 100x greater risk of death after firefighting activities compared  
36 to station duties. As a profession, and on the local level, we try to modify our risk factors  
37 as much as possible, such as increasing our physical fitness, annual heart and cancer  
38 screenings, prohibiting tobacco use amongst employees, and addressing nutritional  
39 issues. Most impactful, we have a mandatory physical conducted in accordance with  
40 the provisions of the National Fire Protection Association 1582 Standard on  
41 Comprehensive Occupational Medical Programs for Fire Departments. Beyond the  
42 NFPA 1582 physicals, our department has also implemented a cardiac screening  
43 program that includes a stress test, heart CT, lipid and cardiac marker panel, as well as  
44 a vascular ultrasound. The cardiac screening is administered on a risk basis, with a  
45 minimum of every five years for all fire department employees.

46

47 Our career police officers and firefighters need to be covered for sudden,  
48 catastrophic cardiac or vascular events that occur on duty and up to 48 hours after  
49 duty, from their first day on the job. Our circumstances are uniquely different than the  
50 civilian population and as such, deserve a unique solution to this challenge to make  
51 sure no other career police officer or career firefighter has to fight twice as hard to  
52 recover from these duty related incidents.

53

54 Mr. Chairman, I ask for a Do Pass on this bill to send this to the Senate for a vote,  
55 to show the support for Officer Brown, and all our career firefighters and career police

56 officers across the great state of North Dakota. Thank you for your time and the  
57 opportunity to speak today. I'll stand for any questions the committee may have.

58

59

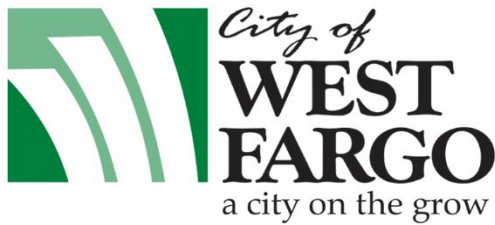
60

61 References:

62 National Fallen Firefighters Foundation. Emmitsburg, MD

63 First Responder Center for Excellence for Reducing Occupational Illness, Injuries, and

64 Deaths, Inc. Crofton, MD



**Testimony on HB 1279**  
**Presented to the Senate Workforce Development Committee**  
**Prepared by Bernie Dardis, West Fargo Commission President**  
**Thursday, Feb. 2, 2023**

1           It is my honor to welcome every new officer to the West Fargo Police  
2 Department at West Fargo City Commission meetings and new firefighters at the Joint  
3 Recruit Firefighter Academy graduation. During my speeches, I make sure to thank their  
4 friends and families for sharing their loved one with the community. Coming from a law  
5 enforcement family and former law enforcement myself, I know the sacrifice families  
6 make with these jobs. As you watch your loved one walk out the door, you know  
7 tragedy could become part of your day.

8           HB 1279 came from a near tragic event that occurred in West Fargo. I stood in  
9 the hallways with Officer Tim Brown's family and his fellow officers in the hours after his  
10 on-duty heart attack. I heard the family take in the grave updates with less-than-  
11 optimistic outcomes and have to weigh decisions. I offered support to his fellow officers  
12 as they were no doubt reminded of the same situation just 5 months earlier when we  
13 lost Lt. Adam Gustafson. I thought about Officer Brown's family, who shared him with  
14 the community and were suffering the consequences of the generosity. Imagine if we  
15 had known in those moments that he would not be covered by Workforce Safety  
16 Insurance because of an arbitrary timeline?

17           In North Dakota, the legislature has worked hard to create the safest  
18 environment possible for our public safety professionals. You have developed close  
19 working relationships with the professions' leadership to understand the issues facing  
20 them and shape legislation that protects our communities. This work has made North  
21 Dakota a state that officers seek out to work in. The lack of support from the 5-year  
22 presumption clause does not align with this work.

23           It also threatens the vital recruitment work our agencies are conducting to fill  
24 vacant positions. Since Sept. 2020, the West Fargo Police Department has filled eight  
25 positions from out of state. Experienced officers are seeking North Dakota as a place to  
26 work, but we now know they will be excluded by the presumption clause for 5 years  
27 even if they have it in other states. Our own Chief of Police, a 32-year veteran law  
28 enforcement officer, is currently not covered by WSI. With the competitive job market,  
29 details like this can become the difference and can lead to a decline in candidates.

30           My first oath is to the safety of my citizens and that is something I am not willing to  
31 compromise on. I believe this extends to the safety and support my officers, firefighters  
32 and their families receive. No one should have to risk their security to serve the  
33 community. To me, this is not a dollars and cents issue for the City. I cannot in good  
34 conscience ask these individuals to put their lives on the line on day 1, unless I know on  
35 day 1 they will have the full support they deserve.

36           For these reasons, I urge a DO PASS on HB 1279.

37           Respectfully,

A handwritten signature in black ink, appearing to read "Bernie Dardis". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

38  
39           Bernie Dardis, Commission President  
40           City of West Fargo  
41           Email: [bernie.dardis@westfargond.gov](mailto:bernie.dardis@westfargond.gov)  
42           Phone: (701) 715-8343



# West Fargo Police Department

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**Testimony on HB1279 - Proposed Changes to WSI Presumption Clause Language  
Submitted to the Senate Workforce Development Committee  
Prepared by Chief Denis Otterness, West Fargo Police Department  
Thursday, Feb. 2, 2023**

1 Members of the Senate Workforce Development Committee:

2 My name is Denis Otterness and I am the Chief of Police for the City of West  
3 Fargo. I have been a sworn law enforcement officer for 32 years and have served the  
4 citizens of West Fargo in my current capacity since September 2020.

5 I have been waiting nearly fifteen months for the opportunity to show my support  
6 for all of the men and women of North Dakota law enforcement. I want to start by  
7 thanking the North Dakota legislature and the citizens of North Dakota for incorporating  
8 Presumption Clause language into Century Code. It is clear that the State of North  
9 Dakota appreciates well-documented medical research that reveals that  
10 cardiovascular disease, including heart attack, is a leading cause of death among our  
11 nation's law enforcement officers. The average age of a heart attack for law  
12 enforcement officers occurs at 46 years of age compared to age 65 in their civilian  
13 counterparts. Current research and data also suggest that law enforcement officers  
14 have a life expectancy that is over twenty-one years less than their civilian  
15 counterparts; and the years of potential life lost was 21 times larger than those among  
16 the general population. Contributors to these troubling statistics are likely factors such  
17 as mental stressors, work schedules, shift work, hypervigilance and traumatic events.

18 Police officers are known to have a stress pattern that is often very different than  
19 what is experienced by individuals in the civilian sector. Research involving more than  
20 4,500 United States law enforcement officers from 1984 to 2010 produced data  
21 revealing that the risk of sudden cardiac death was 34-69 times higher during restraints

22 and altercations, 32-51 times higher during pursuits, 20-23 times higher during physical  
23 and reality-based training, and 6-9 times higher during medical and rescue operations.  
24 Studies have further concluded that there is a definitive correlation between chronic  
25 stress and the overall health of law enforcement officers, specifically as it relates to  
26 cardiac health.

27 I share these statistics because the West Fargo Police Department has been  
28 significantly impacted by cardiac events over the last 2 years. On May 18<sup>th</sup>, 2021 the  
29 West Fargo Police Department lost Adam Gustafson, a 41 year old Lieutenant with a  
30 wife and three young children. Lieutenant Gustafson suffered a cardiac event in his  
31 squad car in the underground garage of our police headquarters and passed away.

32 Fast forward five months for the reason we are all here today. On October 30,  
33 2021 officers from the West Fargo Police Department located two suspects that were  
34 wanted in connection to a recent shooting in a neighboring jurisdiction. Contact was  
35 made with both subjects in an apartment complex and their identities confirmed. One  
36 of the suspects resisted arrest when officers attempted to take her into custody. After a  
37 physical confrontation officers were able to take her into custody. She then refused to  
38 walk to the officer's squad car for transport causing two officers to have to physically  
39 carry her out of the apartment complex out to the awaiting squad car. Officer Tim  
40 Brown was one of those officers.

41 Both suspects were transported to the Cass County Jail to be booked on their  
42 arrest warrants for Aggravated Assault and for the previously mentioned defendant, a  
43 new charge of Preventing Arrest. During the booking process Officer Tim Brown went  
44 into cardiac arrest and collapsed on the booking room floor. Unresponsive and not  
45 breathing Deputies from the Cass County Sheriff's Office began immediate life-saving  
46 measures.

47 Officer Brown was transported to a local hospital, stabilized, and eventually life-  
48 flighted to Omaha, Nebraska for additional cardiac care. I am happy to report that  
49 Officer Tim Brown not only survived this incident, he is back to work full time as a police  
50 officer for the City of West Fargo, and here to share his story with you today.

51           What followed is an unconscionable set of events that started with WSI denying  
52 Officer Brown's work-related medical claim. Officer Tim Brown had only been employed  
53 as a police officer for the City of West Fargo for ten months when this event occurred  
54 and accordingly, WSI denied his medical claim because of the current Presumption  
55 Clause language. This created a need to run all of Officer Brown's medical bills through  
56 his personal insurance. As you can likely predict, Officer Brown's personal insurance  
57 denied portions of his claim, to include his life-flight to Nebraska, creating unnecessary  
58 stress and a \$70,000 plus financial hardship on Officer Brown and his family. While this  
59 was all eventually corrected it was all avoidable.

60           Because of this incident, coupled with the research and data, I am here today in  
61 strong support of HB1279 and the elimination of the current five-year waiting  
62 requirement to cover police officers work-related cardiac events. All Officer Brown did  
63 on October 30, 2021 is go out and do exactly what we ask all of our state law  
64 enforcement to do.....his job. He was not negligent and this was not self-inflicted. He  
65 was engaged in the arrest of two violent felons wanted in connection to a shooting, an  
66 event that was tremendously stressful and dangerous without resisting subjects.

67           We cannot continue to ask law enforcement officers to do a very dangerous  
68 and challenging job without properly covering them when they are injured during the  
69 course of their duties. Officer Brown and the City of West Fargo did everything required  
70 by Century Code and P.O.S.T. Board rules prior to his hiring. Ten months before this  
71 incident Officer Brown was medically cleared without restrictions after a full and  
72 complete pre-employment physical that included cardiac screening.

73           Prior to closing I want to take a moment to address the Fiscal Note prepared by  
74 staff at WSI. At face value, the document does exactly what WSI has expressed they  
75 would do. Because of the work I have been doing surrounding this legislation, I have  
76 been hearing for months that WSI has planned to provide data to the legislature that  
77 will support a large increase in WSI premiums to local municipalities if this legislation  
78 passes. What this document doesn't contain is any factual data relevant to this  
79 legislative issue. There is no data to support that the monetary facts provided by WSI  
80 are related to police officers working with zero to five years of service. HB1279 is simply



81 asking to eliminate the five-year waiting period for officers with zero to five years of  
82 service and cover their work-related cardiac claims.

83 WSI's claim that eliminating the five-year waiting period will "broaden the  
84 number of claims" is not supported by any data, it is speculation and conjecture. In  
85 WSI's statement projecting a broad increase in the number of claims WSI also stated  
86 "the extent (of the increase) is unclear as we don't have access to an appropriate  
87 base of historical experience to use in deriving the estimates". I submit to you the only  
88 agency that has, or should have this information, is WSI. If there is/was no "base to  
89 support the historical experience to use in deriving the estimates" why was the five-year  
90 waiting period ever included in the original legislation?

91 All work-related injury claims, including those that have been denied under the  
92 five-year waiting period, are filed through one single agency, WSI. If WSI doesn't have  
93 the information on the number of claims they have denied I'm not sure who would. I  
94 find it disingenuous that they provided data for claims the Presumption Clause already  
95 covers but won't provide facts for the claims they have denied under this statute. They  
96 certainly have one case they could have provided, Officer Tim Brown's.

97 As a result of this incident I have attempted to speak to every Sheriff and Police  
98 Chief in this State. I have not heard from one Sheriff or Police Chief that has  
99 experienced the same set of facts or circumstances as we and the Brown family has,  
100 but I strongly believe that one case is too many.

101 There is little doubt that if the State of North Dakota continues to require a five-  
102 year waiting period before it covers police officers work related cardiac claims, it could  
103 have a detrimental effect on recruiting police officers from out-of-state. Because the  
104 State of North Dakota remains steadfast in its support for law enforcement we have  
105 seen a number of out-of-state applicants looking to gain employment and fill some of  
106 the many vacancies that exist statewide. Many of the Chiefs and Sheriffs I have spoken  
107 to are concerned that if changes aren't made to allow coverage for officers  
108 immediately upon their employment, we could begin to see those out-of-state numbers  
109 decline. To this point, since beginning my tenure with the West Fargo Police

110 Department in September, 2020, I have hired eight police officers from out-of-state, to  
111 include Officer Tim Brown who joined us after serving the Memphis, TN Police  
112 Department.

113 Finally, as a 32-year veteran law enforcement officer and Chief of Police, I serve  
114 in this state not covered by WSI. I strongly urge you to support law enforcement and  
115 their families and the changes requested in HB1279.

116 Thank you,  
117 Denis Otterness, Chief of Police  
118 Email: [denis.otterness@westfargond.gov](mailto:denis.otterness@westfargond.gov)  
119 Phone: (701) 515-5500



**RE: HB 1279 West Fargo City Commission Letter of Support**

Thursday, Feb. 2, 2023

To the members of the Senate Workforce Development Committee:

We write you today to express our support for HB 1279, relating to the presumption of compensability for firefighters and law enforcement officers.

On Oct. 30, 2021, West Fargo Police Officer Tim Brown suffered a nearly fatal heart attack while on duty. This occurred as Officer Brown was booking multiple felony suspects into the Cass County Jail. The arrest of the suspects included a physical confrontation and refusal to walk that forced Officer Brown to help carry the suspect out of an apartment complex to his squad car.

The West Fargo City Commission was shocked and saddened to learn that Officer Brown's Workforce Safety Insurance claim was denied due to legislation that implemented a 5-year presumption clause. North Dakota has always been known as a pro-public safety state and this legislation does not align with this value. How can we ask our law enforcement officers and firefighters to do a very dangerous job without properly covering them from day 1 when they are injured during the course of their duties?

We were lucky to have recruited Officer Brown from Memphis, Tennessee and gained his knowledge and experience. In fact, in the past 2.5 years the West Fargo Police Department has diversified the department by 8 out-of-state officers. These individuals seek out the supportive environment they find in North Dakota and help keep our department fully staffed to protect our community. But their prior years of experience are wiped clean as soon as they enter North Dakota. Even Police Chief Denis Otterness, a 32-year veteran law enforcement officer is currently not covered by WSI due to the presumption clause.

We ask our officers and firefighters to protect and serve us from day 1, yet we don't protect and serve them until day 1,865. HB 1279 is not just about Officer Brown. However, Officer Brown's story has sparked a conversation about how we care for our public safety personnel. We need to fix this problem.

For these reasons we ask you to support HB 1279 with a DO PASS recommendation.

Sincerely,

Bernie Dardis, Commission President  
Mark Simmons, Commissioner  
Brad Olson, Commissioner  
Mandy George, Commissioner  
Roben Anderson, Commissioner

**2023 Engrossed House Bill No. 1279**  
**Testimony before the Senate Workforce Development Committee**  
**Presented by Art Thompson, Executive Director**  
**Workforce Safety and Insurance**  
**Date: February 2, 2023**

Mr. Chairman and Members of the Committee:

My name is Art Thompson, Executive Director of Workforce Safety & Insurance (WSI). I am here today to provide testimony on Engrossed House Bill No. 1279. Governor Burgum has identified this legislation as a high priority, as noted in his State of the State address at the beginning of the 68<sup>th</sup> Legislative Assembly and requests your do-pass recommendation on the engrossed version of this bill.

By way of background, presumption claims found in Section 65-01-15.1 differ significantly from other claims within the North Dakota workers' compensation system. Generally, an injured employee bears the burden of proving entitlement to benefits. In presumption claims, the claim is presumed compensable, and the burden of proof is upon WSI to show an employee is not entitled to benefits. WSI must do so by clear and convincing evidence.

The employee classes covered by the presumption law include full-time paid firefighters and full-time paid law enforcement officers. The types of claims for which the presumption law is available include "lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter." These conditions are presumed to have been suffered in the line of duty.

For the presumption law to apply, the firefighter or law enforcement officer must have five years of continuous service in North Dakota. The continuous service requirement has been part of this statute since 1995. The statute also requires the firefighters and law enforcement officers to undergo periodic medical examinations based upon the employee's years of service. These examinations currently require laboratory and diagnostic procedures including "a nonfasting total blood cholesterol" test. Employers of the firefighters and law enforcement officers are generally the State of North Dakota and its political subdivisions.

WSI averages approximately 10 presumption claims a year. The highest cost presumption claim was \$11.5 million. Excluding this large claim from the averages, the average cost for presumption claims has been \$227,340 for time-loss presumption claims and \$29,670 for medical only presumption claims. For the law enforcement and paid firefighter classes, the average costs for presumption claims are significantly higher than non-presumption claims, 6.8 times higher for time-loss claims and 18.8 times higher for medical only claims. The average costs for presumption claims are significantly higher than claims from all other rate classes, 3.8x higher for time-loss claims and 21.5x higher for medical only claims.

In its original form, HB 1279 proposed the following primary changes:

1. Removed the five-year continuous service requirement,
2. Designated the costs of required medical examinations be borne by employers, and
3. Removed the requirement for "a nonfasting total blood cholesterol test", leaving the medical professional to decide which tests are best conducted.

The elimination of the continuous service requirement was intended to assist in the recruitment and retention of employees in these critical professions. The employer required payment of periodic medical examinations was to ensure these examinations took place and at no cost to law enforcement officers and firefighters. Removal of the cholesterol test and the additional language was to allow medical professionals the discretion to perform tests deemed necessary to evaluate an employee's cardiovascular health. WSI's fiscal note indicated the elimination of the 5-year minimum service requirement was expected to increase the number of presumption related claims. To what extent was unclear, as WSI does not have reliable data to make that determination.

The House passed Engrossed HB 1279 (93-0-1). The amendments take into consideration the uncertainty in the increase costs to the state and political subdivisions, as well as provides for payment of the law enforcement officer's claim giving rise to this legislation. As a result, Engrossed HB 1279 makes the following additional changes:

1. Reinstates the five-year continuous service requirement but allows for full-time paid service outside of North Dakota to be included,
2. Extends presumption coverage to full-time paid fire fighters and law enforcement officers serving less than five continuous years to cardiac-related events that occur within 48 hours of an event involving strenuous activity, and
3. Includes a retroactive application of the bill's provisions to claims filed after October 1, 2021.

The cardiac-related events outlined in Section 3 of this bill will be adjudicated in the same manner as the traditional presumption claims found in Section 65-05-15.1. The presumption may be rebutted by clear and convincing evidence, is available to the same pool of firefighters and law enforcement officers as the traditional presumption law, and applies only after the successful completion of a medical examination indicating no evidence of a cardiovascular condition.

The fiscal note was priced under the assumption that coverage extends to injuries occurring and claims filed after October 1, 2021. With that assumption, WSI can identify three known claims that appear to meet these parameters; however, the reserve level impact remains unknown because the claim costs are unknown. To the extent additional claims emerge, we anticipate rates will be adjusted accordingly. Due to this uncertainty, the WSI Board maintains a neutral position on this bill.

The Governor is in full support of Engrossed HB 1279, and, on behalf of the Governor, I ask for a do pass recommendation. This concludes my testimony and I would be happy to answer any questions you may have.

## Tim Brown Speech

Hello members of the political subdivision committee.

Thank you for your time today and the opportunity to share my story.

I'm Officer Timothy Brown. I have a beautiful wife, Courtney, and together we are raising two little boys ages 4 and 7. Prior to serving the West Fargo community, I proudly served as a medic in the US Army and as a police officer in Memphis, TN. Every job that I've had has required rigorous physical activity and tests, including cardiac stress tests and EKGs. I have NEVER had any signs of heart issues, including at an EKG I had less than a year before October 30, 2021.

That night would change my life forever. On that night, I left my home after my evening routine. The routine includes spending time with my family, putting our boys into bed, ensuring they say their prayers, then kiss them goodnight. When I leave the room, I tell goodnight and to protect your mother. I tell them this every night.

Whether I'm in an Army uniform or a police uniform, I know and have come to terms that when I walk out the door to work, it may be the last time I do so. After transitioning out of military service, I could have taken a job where I didn't feel this way, but I didn't. Because serving my country and serving my community is what I want to do. Men and women in uniform serve, despite the dangers and risk, because we know that should something happen to us while we take care of the community, the community will take care of our family. We know that our police and community family will ensure our personal family will be okay.

After the night of October 30, 2021 and some life-saving medical events, I returned home to the love and support of the community and the department. The West Fargo police and city took care of me and most importantly, my family. It was a traumatizing experience for Courtney and our boys, but we were absolutely blown away by everyone's support. The bags upon bags of get-well cards.

The well wishes, the time to recover... Then came the medical bills.

The price of keeping me alive was approximately half a million dollars. To put that in perspective, that is x 115 times my take home monthly salary or x 10 times my annual take home salary. We contacted WSI and insurance told us what WSI would not cover the bills due to some arbitrary 5 year rule. Thankfully, after some back and forth with insurance, they agreed to cover everything except my deductible and half of the life flight. This left us with a \$90,000 bill which is x 21 times my monthly salary and x 2 times my annual salary.

I have a family that I must support. With a debt of almost \$100K in relation to our income, with mouths to feed and necessities like housing, groceries utilities, school supplies, etc. to consider, it would take us MANY years to slowly pay this debt down. It's essentially a mortgage without the house. We would never be able to buy our own home, have a reliable car, and we would live in continuous fear of anything else popping up in life that required



money. Forget any college funds or setting up our boys for a financially stable upbringing.

These worries haunted me and I came to the realization that with the 5 year rule in place, my family was better off with me dead. With a 5 year rule in place, our options were: 1) I am saved and we are financially ruined or 2) I am dead and they receive a life insurance payout. A life insurance payout that is barely even enough to cover our original medical bills!

BUT I am incredibly lucky that I work for a phenomenal city with admirable leadership and administration. It may be hard to believe, but I think that Chief Otterness and the WFPD command staff has probably lost more sleep than I have over making sure my family is taken care of. For this, I will be eternally grateful.

By sharing my experience, I hope you can agree with me that the 5-year rule does not make sense. This is the United States of America and as a nation, we take care of our folks who don the uniform and put themselves in

harms way. It's wrong to put people who serve at their own peril in the position where it's better for them to die than live. I would like to think that I shouldn't be financially ruined to be saved and have the opportunity to see my boys grow up, to be a husband until we grow old together. By speaking to you today, I hope that we can change the law and ensure this never happens again to anyone else facing a life-and-death situation like I did. Thank you for your time and action.

Good Afternoon Chairman Wobbema and members of the Senate Workforce Development Committee. I want to thank you for the opportunity to be here today. I also want to thank the Sponsor and Co-Sponsors for bringing this important piece of legislation forward. My name is Steve Dirksen; I have the honor and pleasure to serve as the Fire Chief for the City of Fargo. I have been a firefighter for the past 34 years and have served for the past 11 ½ years in my current role in the City of Fargo.

My written testimony provides a technical review of the medical examination process used by the City of Fargo for new hire and annual medical surveillance. I will just give the Readers Digest version here.

It has been a mission of mine to improve the health and safety of firefighters for the past 25 years. I have worked very closely with Sanford Occupational Health, particularly Dr. Clayton Van Balen, in developing a comprehensive medical physical program that meets national standards for firefighter physicals.

The fire service is fortunate that there are a number of consensus standards, which are developed by industry experts, to help guide and develop best practices. The National Fire Protection Association (NFPA) is the group that the fire service looks to for that guidance. NFPA 1582: *Standard on Comprehensive Occupational Medical Program for Fire Departments* is the guiding standard for fire departments to develop medical surveillance programs.

In Fargo, our firefighters receive annual physicals based on this standard. I checked with the other fire departments in North Dakota who have fulltime paid staff to gather data on how they meet the requirement of ND CC 65-01-15.1. All departments in this category offer at a minimum a physical that complies with the requirements of the chapter. A super majority provide an NFPA

1582 compliant physical. Some provide NFPA compliant physicals following the timelines set forth in ND CC 65-01015.1. There are a few that provide the NFPA 1582 compliant physical on an annual basis for all members.

The fire service knows very well that dollars spent in prevention is better than spending them in response. For the past 9 years I served on the Red Cross Board in Fargo and we had a presentation from the National Office that showed, for the Red Cross, for every dollar spent in prevention, it saved four dollars in response. That is one reason why I ensure our firefighters receive annual medical evaluations. Our medical professionals are looking to eliminate disease and other attacks on our firefighter's bodies. They are looking to identify things early where treatment can prevent progression and maybe even reduce future risk.

But the one thing a medical surveillance program cannot account for is exactly what happened to Officer Brown. Sudden cardiac arrest, vascular embolism due to vessel compression, exposure to toxins due to equipment failure, and many more. These issues have occurred in firefighters at the beginning of their careers all the way through the end. It is only right that we provide a high level of protection to these individuals who put their lives in harm's way to save or protect the lives and property of others.

If you would indulge me for a moment. I want to take you back to January 2, 2023. Many of us watched live and others through news outlets or the internet, when Buffalo Bills Safety Damar Hamlin was involved in a significant tackle, stood up, collapsed due to sudden cardiac arrest. Mr. Hamlin a 24-year-old professional athlete, who likely had more comprehensive physicals and medical care in the past 10 years than most of us will receive in a life time, and he suffered sudden cardiac arrest. Mr. Hamlin in his work environment had medical professional's yards away and responded very quickly.

In closing our fire departments and law enforcement agencies do the best possible to ensure the health and wellbeing of those who work with us. Our communities support a healthy workforce by funding these programs. Our employees work to keep themselves in good physical condition in order to do their jobs well. It is important that we protect our public safety workers and support the investment of our citizens, with your support of this legislation we will provide our firefighters and law enforcement officers important coverage in case the unthinkable happens.

I ask for you to adopt a "DO PASS" recommendation on HB 1279

Thank you, and I stand for any questions.

Testimony Presented on HB 1279 to the  
Senate Workforce Development Committee  
Senator Michael Wobbema

By

Steven J. Dirksen, Fire Chief  
City of Fargo

February 2, 2023

This statement expresses the support of the City of Fargo to House Bill 1279, relating to the presumption of compensability for firefighters and law enforcement officers.

Good Afternoon Chairman Wobbema and members of the Senate Workforce Development Committee. I want to thank you for the opportunity to be here today. I also want to thank the Sponsor and Co-Sponsors for bringing this important piece of legislation forward. My name is Steve Dirksen; I have the honor and pleasure to serve as the Fire Chief for the City of Fargo. I have been a firefighter for the past 34 years and have served for the past 11 ½ years in my current role in the City of Fargo.

HB1297 proposes to amend Section 65-01-15.1 by removing from subsection 3 (a) the requirement for a firefighter or law enforcement officer to have five years of continuous service with a fire department or law enforcement agency in North Dakota. An additional change in this subsection is to remove the word “require” and replace with the employer needs to “provide at no expense,” a medical examination upon employment for any employee subject to this section.

Subsection 3 (b) also spells out the removal of the word “require” and replace with the employer needs to “provide at no expense”. An additional change in this section is the removal of “including a nonfasting total blood cholesterol test” and replacing it with “indicating cardiovascular health to a reasonable degree of medical certainty”.

The other change is the definition in subsection 4, replacing “a person” with “an individual”.

Individuals who wish to be employed as a City of Fargo firefighter are given a myriad of tests that include a psychological, polygraph examination, background checks (to include criminal), mask fit testing as well as a comprehensive medical physical exam.

The medical physical exam follows the standards set forth by the National Fire Protection Association (NFPA) 1582: Standard on Comprehensive Occupational Medical Program for Fire Departments. NFPA 1582 Chapter 5 identifies 14 essential job tasks required of structural firefighters. Those tasks range from wearing self-contained breathing apparatus while pulling fire hose, crawling, lifting and carrying heavy objects,

during exposure to toxic fumes, infectious hazards, and heated gases to climbing ladders and stairs and operating in other hazardous conditions.

NFPA 1582 Chapter 6 describes the medical evaluation of those individuals who wish to be firefighters prior to being placed in training programs. This comprehensive medical examination evaluates individuals from head to toe to determine a baseline medical fitness assessment. This standard provides information and guidance for physicians and other health care providers responsible for fire department occupation medical programs.

Through the comprehensive exam, individuals are assessed for conditions that may be present in their hearts, lungs, and vascular systems. These items are all covered under the presumptive legislation found in Chapter 65 of the North Dakota Century Code.

A Fargo firefighter continues to receive annual medical evaluations following the guidance provided in NFPA 1582 for the remainder of their career with Fargo Fire. The physical examination includes:

1. Evaluation of vital signs; temperature, pulse, respiratory rate, and blood pressure. (Blood pressure is measured according to the recommendations of the Seventh Report of the Joint National Committee on Prevention, Detection, Evaluation, and Treatment of High Blood Pressure (JNC 7))
2. Head, eyes, ears, nose, and throat (HEENT)
3. Neck
4. Cardiovascular
5. Pulmonary
6. Breast
7. Gastrointestinal with digital rectal exam as clinically indicated
8. Hernia
9. Lymph nodes
10. Neurological
11. Musculoskeletal
12. Skin (includes screening for cancers)
13. Vision

There are a number of ancillary tests included:

1. Blood Tests to include –
  - a. CBC with differential, RBC indices and morphology, and platelet count
  - b. Electrolytes (NA, K, CL, HCO<sub>3</sub>, or CO<sub>2</sub>)
  - c. Renal function (BUN, creatinine)
  - d. Glucose
  - e. Liver function Tests (ALT, AST, direct and indirect bilirubin, alkaline phosphatase)
  - f. Total cholesterol HDL, LDL, clinically useful lipid ratios and triglycerides

2. Urine
3. Audiology
4. Spirometry
5. Chest X-ray – baseline then as medically indicated
6. ECG's – baseline then annually at age 40 or as clinically indicated.
7. Risk Stratification –
  - a. Asymptomatic firefighters at age 40 for their 2-year or 10-year risks of ASCVD
  - b. Asymptomatic firefighters younger than 40 known to be at high risk for ASCVD shall be assessed for coronary artery disease.
  - c. The 2-year Framingham risk tables or the 10-year heart risk calculator created by the American College of Cardiology/American Heart Association (ACC/AHA) shall be used to generate a 2 year or 10 year risk of ASCVD.
  - d. If ASCVD scores are high symptom limiting exercise stress testing with imaging is to be ordered.
8. Mammography
9. Immunizations and Infectious Disease
10. Post-Exposure Bloodborne Pathogen Testing
11. HIV Testing
12. Heavy Metal Evaluation
13. Colon Cancer Screening
14. Prostate Cancer Screening
15. Lung Cancer Screening
16. Cervical Cancer Screening
17. Testicular Cancer Screening
18. Bladder Cancer Screening
19. Oral Cancer Screening
20. Thyroid Cancer Screening
21. Skin Cancer Screening
22. Sleep Disturbance Screening
23. Behavioral Health Screening

The City of Fargo provides this level of medical surveillance to provide our employees with a baseline picture of their current level of medical wellness. Through the annual examinations, we have had several members self-report a condition was identified early, even before the individual became symptomatic. As an employer, the City of Fargo desires to provide a high level of yearly medical surveillance to ensure that our firefighters can have long careers and healthy retirements.

Firefighting is a dangerous profession. There are known risks with this profession but there are numerous events that we cannot prepare for. Sudden cardiac arrest, vascular embolism due to vessel compression, exposure to toxins due to equipment failure, and there are many more. These issues have occurred in firefighters at the beginning of



their careers all the way through the end. It is only right that we provide a high level of protection to these individuals who put their lives in harm's way to save or protect the lives and property of others.

The City of Fargo Strongly encourages the committee to adopt a "Do Pass" recommendation on HB 1279.

Testimony Presented on HB 1279 to the  
Senate Workforce Development Committee  
Senator Michael A. Wobbema, Chairman

Dr. Timothy Mahoney, Mayor, City of Fargo  
Commissioner Denise Kolpack, City of Fargo

February 2, 2023

Dear Members of the Senate Workforce Development Committee:

On behalf of the City of Fargo, we are writing collectively to you today in support of HB 1279. One of the top priorities we share as local elected officials is to ensure that our public safety employees are provided with a high-level medical physical surveillance program. In the City of Fargo, we care for the well-being and safety of our dedicated public safety servants, and we believe HB 1279 will further support this care for our first responders.

Annually, the City of Fargo invests significant funds to ensure the firefighters we hire can meet the rigorous physical and mental demands of the profession. The firefighters are provided – at no expense – a medical and mental evaluation that meets the nationally recognized standards established by the National Fire Protection Association Standard 1582. After the employees complete their probationary period, they are provided an annual evaluation that far exceeds the requirements set forth in North Dakota Century Code. The examination is a comprehensive “head to toe” evaluation of the total health of the employee. The physical examination is augmented by a number of ancillary tests that range from blood tests, to ECG’s, chest x-rays, cancer screenings, to sleep disturbance and behavioral health screenings.

But the one thing we cannot test for, and have no way to predict, is sudden cardiac arrest due to trauma, vascular embolism due to vessel compression, exposure to immediate dangers to life, and health toxins due to sudden and catastrophic equipment failure. These types of situations have occurred in the fire service to firefighters at the beginning of their careers through the end. If there is a way to prevent these events from happening, we would most assuredly put processes in place to stop them.

The City of Fargo takes great steps to ensure that we hire public safety employees who are physically capable to complete the tasks required of a firefighter. We work to ensure there is continual surveillance of physical health. By removing the five-year waiting period, we are providing the coverage for those employees who suffer a sudden medical event because of their employment. It is imperative that we take care of our public safety employees who put themselves in harm’s way to protect our communities.

Together, we ask for your consideration of a “DO PASS” recommendation on HB 1279.

Respectfully,

Dr. Timothy Mahoney,  
Mayor, City of Fargo

Denise Kolpack  
City Commissioner, City of Fargo