

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1283**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1283

Industry, Business and Labor

Conference Committee

Hearing Date Jan. 20, 1999

Tape Number	Side A	Side B	Meter #
3	x		52.5
Committee Clerk Signature	<i>Lisa Horner</i>		

Minutes:

HB 1283 Relating to increasing worker's compensation death benefits; and to provide an effective date.

Chairman Berg opened the hearing on the bill.

Representative Carlson, Introduced the bill and testified in support of the bill. He provided information relating to work death ratio. We believe we live in an area where not many people get injured during work activities. The bill will double the amount of lump sum paid for death benefits during work. These benefits are very necessary since present amounts are considered lower than current industry costs.

Page 2

Industry, Business and Labor

Bill/Resolution Number Hb 1283

Hearing Date Jan. 20, 1999

Ms. Julie Leer, Attorney for Workers Compensation, testified in support to the bill. Questions and discussion followed.

(see attached written testimony)

Chairman Berg closed the hearing on the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1283

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
3	x		0
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

HB 1283

Chairman Berg opened the meeting on the bill.

Representative Klein moved for do pass, Second by Representative Froseth

By roll vote, 14 yes, 0 no, 1 absent, motion passed

Representative Klein will carry the bill.

Chairman Berg closed the meeting on the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1283 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-13-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

See attached.

- 2. State fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_
- b. For the 1999-2001 biennium: \_\_\_\_\_
- c. For the 2001-03 biennium: \_\_\_\_\_

- 4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed J. Patrick Traynor

Typed Name J. Patrick Traynor

Department Workers Compensation Bureau

Phone Number 328-3856

Date Prepared: 01-18-99

***NORTH DAKOTA WORKERS COMPENSATION BUREAU***  
***1999 LEGISLATION***  
***SUMMARY OF ACTUARIAL INFORMATION***

***BILL DESCRIPTION:***      **Death Benefits, Scholarship, & Supplemental**

***BILL NO:*** HB 1283

***SUMMARY OF ACTUARIAL INFORMATION:*** The Workers Compensation Bureau, with the assistance of its Actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation would increase the weekly benefits for surviving beneficiaries who did not receive the 1997 benefit increase. The 1997 death benefit increase applied prospectively for deaths occurring after 8/1/97. The proposed legislation also doubles the award for incidental expenses at the time of death from \$600 to \$1,200 for the decedent's spouse and from \$200 to \$400 for each dependent child. The maximum burial allowance would be increased from \$5,000 to \$6,500.

The proposed legislation would allow injured workers to be eligible for scholarships under certain circumstances. The maximum limit on total dollars annually expended on scholarships would be increased from \$100,000 to \$150,000. The maximum yearly scholarship available per applicant would be increased from \$1,500 to \$3,000.

The proposed legislation changes the supplemental death benefit structure to be consistent for all death beneficiaries regardless of date of death.

***FISCAL IMPACT:***

**Rate Level Impact:** The increase in weekly death benefits and supplemental benefits for pre-1997 death benefit recipients will have no rate level impact, as these sections of the bill will not impact future claims. The increases to the incidental expenses and scholarship benefits will increase costs, however, it is anticipated the impact on rate levels will be nominal.

**Reserve Level Impact:** The proposed legislation will increase required reserve levels because it retroactively applies the current death benefit structure to pre-1997 death claims. Required reserve levels will be increased by **\$7 to \$8 million**. Surviving spouses who would have never have reached the \$197,000 benefit cap will now receive a higher benefit for the life of their claim. Secondly, dollars will be paid out quicker for pre-1997 death claims reducing the overall reserve level discount.

***DATE:*** 1-17-99

Date: 1-26-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1283

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken do pass

Motion Made By Klein Seconded By Froseth

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE (410)  
January 27, 1999 8:30 a.m.

Module No: HR-17-1247  
Carrier: Klein  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1283: Industry, Business and Labor Committee (Rep. Berg, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1283 was placed on the Eleventh order on the calendar.



**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1283**



REPORT OF STANDING COMMITTEE (410)  
March 5, 1999 10:15 a.m.

Module No: SR-40-4097  
Carrier: Heitkamp  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1283: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1283 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**

**HB 1283**

## **DEATH BENEFITS**

### Testimony

Before the House Industry, Business, and Labor Committee

January 20, 1999

Presented by Julie Leer, Attorney

North Dakota Workers Compensation Bureau

Mr. Chairman, Members of the Committee:

My name is Julie Leer and I am an attorney for the Workers Compensation Bureau. I am here today to testify in support of 1999 House Bill No. 1283. This Bill is to increase survivors' benefits for the surviving spouses and dependent children of workers who die as a result of work injuries. The Workers Compensation Board of Directors unanimously supported this bill.

**BACKGROUND – 1997 Legislative Changes:** In 1997, the Legislative Assembly approved several increases in death benefits:

- 1) Increased the minimum and maximum benefits to match the benefit rates for wage-loss benefits. As of July 1, 1998, the maximum weekly benefit is \$417 (100% of the state's average weekly wage) and the minimum weekly benefit is \$251 (60% of the state's average weekly wage). These maximum and minimum benefits change each year as the state's average weekly wage changes. Job Service North Dakota determines the state's average weekly wage which takes effect on July 1<sup>st</sup> each year. Previously, the maximum weekly death benefit payable was \$210 and the minimum was \$105.
- 2) Increased the initial lump sum award for incidental expenses for the surviving spouse from \$300 to \$600 and for the surviving children from \$100 to \$200 per child.
- 3) Doubled the funeral allowance from \$2500 to \$5000.
- 4) Established a scholarship fund for the surviving spouses and dependent children, which awards up to \$1500/school year.
  - a) For the 1997 – 1998 school year, 23 scholarships were awarded totaling \$34,500. Two were awarded to surviving spouses, 21 to surviving children.
  - b) For the 1998 – 1999 school year, 30 scholarships were awarded totaling \$45,000. Three were awarded to surviving spouses, 27 to surviving children.

**PUBLIC INPUT:** Several months ago, the Bureau's chief operating officer, Reagan Pufall was contacted by a woman from Minot, Ms. Sabra Kleppen, whose husband died in a work-related explosion 16 years ago. She related to Reagan that her husband was

earning about \$35,000 a year at the time of the accident, but that due to the limitations on death benefits in the workers compensation act, she has been receiving \$105/week for the past 16 years. She had heard that some changes had been made to the survivors' benefits statutes that increased benefits for deaths claims filed after July 31, 1997 and she inquired whether the law could be changed to provide those higher benefits for those already receiving them, as well. Reagan assured her that we would review the situation and as a result, we have prepared the bill you are now considering. She had intended to come to testify before you today, but she is ill and asked that I let you all know she is supportive of the changes we are proposing. She hopes to make it to the Senate hearings on this bill if the bill is passed out of the House.

**HOUSE BILL NO. 1283:** The changes in **section 1** will double the initial lump sum death benefits, as was done during the last legislative session. A family faces some of its greatest financial need during the period immediately following a death. Initial lump sum death benefit payments are used to take care of some of the short-term needs of a family who has lost a breadwinner. While it is impossible, of course, to ever fully compensate for the loss of a parent or a spouse, the increase in benefits is an attempt to ease the family of some of the financial burden that occurs when a death occurs.

**Section 1** also brings the ongoing death benefit levels in line with the levels used for temporary total disability benefits. This change is being made to accommodate the anticipated increase in the maximum weekly benefit for temporary total disability to 110% of the state's average weekly wage proposed by 1999 Senate Bill No. 2214.

The final change in **section 1** is in response to the concern raised by Ms. Kleppen. It allows the Bureau to apply the increased maximum rate prospectively to prior claims that did not have the benefit of the increased rate enacted in 1997. This increased rate will be provided to 59 families receiving death benefits.

The changes in **section 2** double the scholarship benefits available to the spouses and dependent children of workers who die as a result of work injuries. Since implementing this statute in 1997, the Bureau has been able to reassess what the financial needs of students are. Most of the scholarships we awarded were for students attending North Dakota colleges and universities. In reviewing the increases in the costs of higher education at the state-funded schools, the Bureau found that \$3000 of scholarship money a year will help cover the costs of education to a greater degree, but will not give a recipient a "free ride". We hope to assist the serious students and give them an opportunity they might not otherwise have. (A copy of the results of a survey targeting the 1997 scholarship recipients and of thank-you notes received from some of the scholarship recipients and schools is included with my testimony.) The Bureau is also requesting that you add \$50,000/year to the fund for the coming biennium to allow for a higher number of awards at an increased value.

Additional changes in **section 2** will allow the Bureau to award scholarships in exceptional circumstances, such as for injured workers like Josh Zimmerman. Josh Zimmerman was the young man who was severely injured in a work-related accident in

Grand Forks. He filed suit against his employer, even though he received workers' compensation benefits. While 1999 House Bill No. 1331, which was heard in this committee yesterday, was introduced to codify the holding of the ND Supreme Court in that case, the Bureau has decided to take this opportunity to provide greater benefits to injured workers for whom the current benefit structure **appears** inadequate.

The Bureau, of course, paid all the medical expenses in connection with Josh's injury. Josh was a high school student, however, working at a low wage, part-time job when he was injured. Because he was a low wage earner and worked very few hours a week, it was relatively easy to identify a job within his capabilities that would match his preinjury earnings. Therefore, under the vocational rehabilitation statutes, Josh was ineligible for a vocational rehabilitation plan of training.

While many injured workers are found not to be eligible for training, the exceptional circumstance in this case is that Josh was quite young when the injury happened and his future working career was still somewhat indeterminate. Most injured workers who are not found eligible for training are adults who have developed career skills that allow them to return to work without training. This bill would make the scholarship program available to someone like Josh, perhaps allowing the person to receive financial assistance for school if the unique facts of the case show that an exceptional situation exists. Necessarily, however, this provision also allows the bureau complete discretion in awarding scholarships under these exceptional circumstances. The vocational rehabilitation statutes under which the Bureau operates are sufficient in most cases to restore an injured worker to substantial gainful employment within their potential. In an exceptional case, however, where the injured worker's potential may not be developed as a result of a work injury, the Bureau would like to have the tools in place to allow us to assess whether something more should and could be done. It is of the utmost importance that the Bureau has discretion in making these decisions so that this does not become a source of litigation.

The change in **section 3** increases the burial expenses payable for the funeral of a worker who dies as a result of a work-related accident or illness. While research conducted shows that in many states the average costs of a funeral are between five and six thousand dollars, information received from funeral homes across North Dakota indicated that the average cost of a funeral is between \$5500 and \$7000.

The change proposed in **section 4** would allow the Bureau to increase the supplementary benefits of people who are eligible due to having received death benefits for at least 10 years. Again, this change is prompted by the concern raised by Ms. Kleppen. With the proposed language change, the Bureau can award supplementary benefits to people receiving death benefits at rates which are less than 60% of the current state's average weekly wage. This provision will increase the benefits of approximately 267 families.

The effective dates found in **section 5** provide that the increases in death benefits and supplementary benefits are effective prospectively and that the increases in death

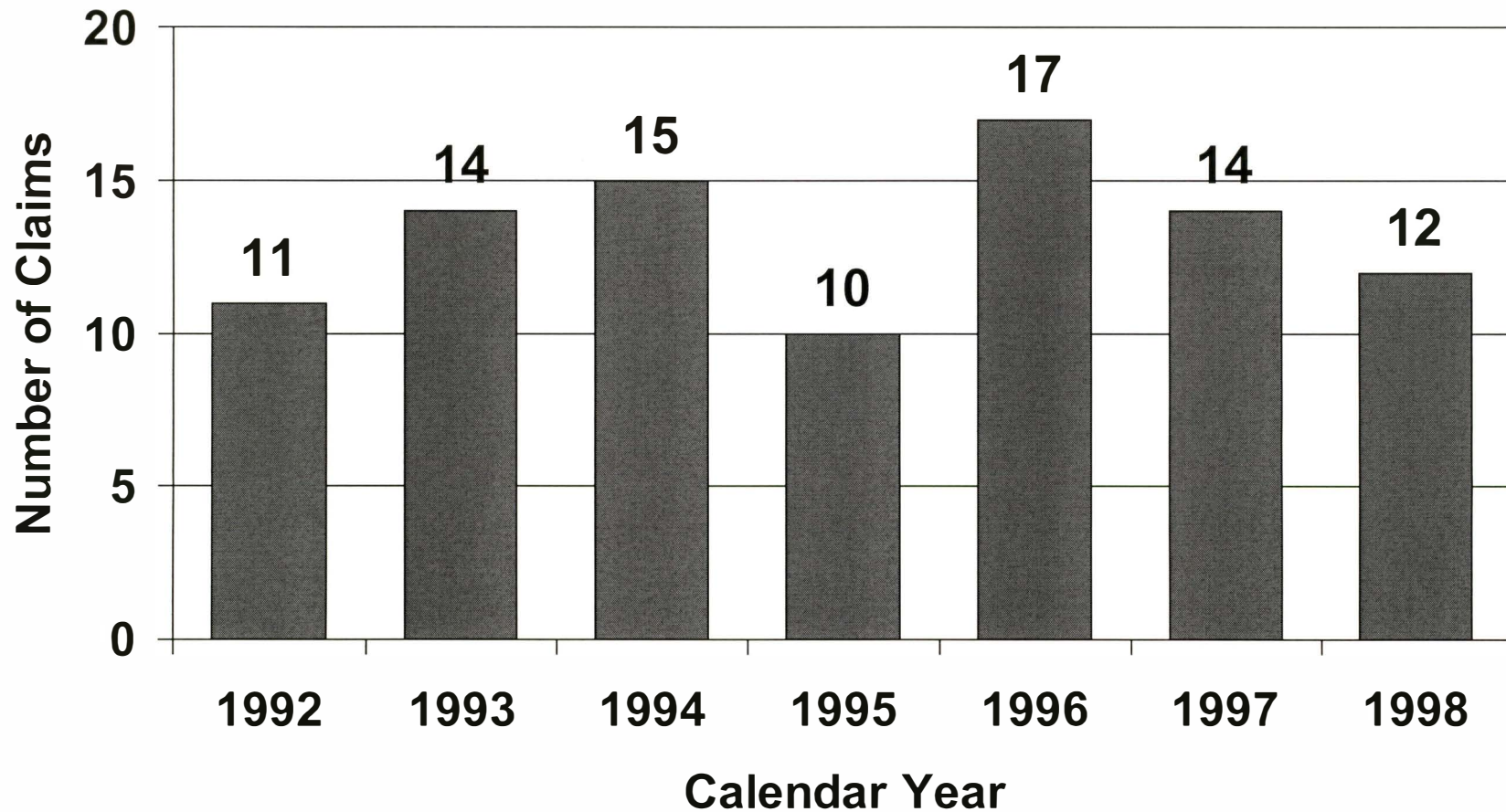
benefits will not be applied to a person who has received an increase in supplementary benefits. This explains why so many more recipients will see an increase in supplementary benefits provided under section 4 of the bill instead of in the benefits provided in section 1 of the bill.

The Bureau requests your favorable consideration of 1999 House Bill No. 1283. If there are any questions, I'll attempt to answer them at this time. Thank you.




# NDWCB Death Claims

Accepted by Calendar Year



# Memo

**To:** Reagan Pufall  
**From:** Chuck Kocher   
**CC:** J. Patrick Traynor  
Jeff Bitz  
John Halvorson  
Cindy Gabel  
**Date:** August 27, 1998  
**Re:** Survey of Participants in the 1997 Scholarship Fund

---

Our department recently conducted a survey of the participants in the 1997 scholarship fund to determine their level of satisfaction with the program and to receive comments on ways we might improve the program. Attached is a copy of the survey results. Please note that we received a response from 19 of the 23 participants in the program for a response rate of 82.6 percent.

Should you have any questions in regard to this survey, please contact me. Thank you.

CJK/dld  
Attachment

# Survey of Participants in the 1997 Scholarship Fund

1. Were you timely informed of the Bureau's selection process for the scholarship program? Yes 17 No 1 Not Answered/Unsure 1

I was unaware til the due date but with your help, I was able to complete the program requirement.

I was not timely informed. In fact, my application was sent in after the deadline.

I was informed of the Bureau's selection process in a timely manner.

2. Was the information describing the scholarship program clear? Yes 18 No 1 Not Answered/Unsure 0

Crystal clear.

Very clear.

The information was clear.

The information describing the scholarship program was clear.

The information I needed was included and easy to understand.

3. Was the scholarship award presented timely between the notice of award and receipt of the check? Yes 17 No 0 Not Answered/Unsure 2

Award notice has been sent. No money received by myself at this time 8/8/98.

Unknown yet.

The scholarship award was presented in a timely notice.

Right on time!

4. Were you satisfied with the service provided by the Bureau? Yes 19 No 0 Not Answered/Unsure 0

Excellent.

Very much so.

Very grateful.

I was very satisfied with the service provided by the Bureau. They were all kind, generous, people ready to help and answer all my questions.

Very satisfied.

5. Were you satisfied with the amount of financial assistance provided by the scholarship fund? Yes 19 No 0 Not Answered/Unsure 0

Any amount is helpful.

It helps greatly.

Compared to other scholarships, this one is above average.

The amount was great.

I was satisfied with the amount of financial assistance provided.

I'm grateful for any amount but tuition is always rising and books are getting more expensive. I still have to come up with a large amount of money.

6. Please rate the overall satisfaction of the scholarship program. Please note a "1" is least satisfied and a "5" is most satisfied.

1	2	3	4.89	5
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7. Please list any additional comments you have in regard to the scholarship program.

Thank you again - I really appreciate the scholarship.

You were wonderful in allowing me to \_\_\_\_\_ and complete - I finished school with a 4.0 and had perfect attendance. I'm successfully employed in Colorado.

This program has enabled me to keep the pursuit of my degree within reach.

Great program.

None, but I have an advantage. I have won for two years now.

Thanks very much. Last year with the award my GPA went up by almost a full grade point!

This is a good program to have - many kids like myself who have lost a parent find it difficult, financially, to attend college. This scholarship helps, thank you.

This is a wonderful program. Everyone was so wonderful about helping me with all my questions.

The program is great!! It is helping out so many families who have had to struggle. I thank you all very much for your help. In the long run, you are improving many lives through this program by helping us obtain degrees!!

I was/am very pleased with this program. It has been very helpful to me.

Very good program.

NORTH DAKOTA STATE UNIVERSITY DEVELOPMENT FOUNDATION

Box 5144 State University Station Fargo, North Dakota 58105  
701/231-8971 Toll Free 1-800-279-8971 Fax 701/231-1035

October 1, 1997

Cindy Gabel  
Workers Compensation Bureau  
500 East Front Avenue  
Bismarck, ND 58504-5685

Dear Ms. Gabel:

It is my pleasure to acknowledge receipt of the recent check from the Workers Compensation Bureau in the amount of \$6,000.00 to North Dakota State University. The funds were forwarded to our office from the Financial Aid office for administration.

As you requested, the funds will be awarded to

Public education is being pressed on all sides today by escalating costs. Commitment to the goals of higher education, such as expressed by your scholarship program is gratifying.

Sincerely,



Gwen Menke  
Account Technician

GM/sp

#87

I would like to let you know  
that I think this new  
Guardian Scholarship program  
you have started is a great  
idea. I was honored to  
receive a \$1,500 scholarship  
through this program. I  
would like to thank you  
very much for this. It is really  
a big help to me and I  
really appreciate it.

Thank you  
[Signature]

#87

I would like to thank  
you for awarding me a  
\$1,500 Guardian Scholarship.  
It is certainly a great help  
with college expenses. I think  
this is a great new program  
you have started. Again,  
Thanks so much.

Sincerely,  
[Signature]

Your kindness comes  
as a welcome touch  
of warmth and caring.  
Thank you  
for all you've done.

I wanted to thank you for the  
wonderful gift in the form of the Scholarship  
for my career in mission work. So  
far I have perfect ATTENDANCE - (There are only 3 left  
of 54 that can see that.) Also I have STRONG A's  
with one B when could still be an A. Thanks again  
and I'll make you proud.



9-8-97

Enclosed is my acceptance letter  
which I have signed. Thank you  
very much for choosing me as  
the winner. I am honored. If you  
need to contact me I can be  
reached @ -

NDSIS -  
Wahpeton, ND 58076  
(701) 671-

Thank you -  
^

~~~~~



**V C S U**  
VALLEY CITY STATE UNIVERSITY

May 21, 1998

Cooperstown, ND 58425

Dear \_\_\_\_\_

Your application for admission to Valley City State University has been received. Thank you for including VCSU in your post-secondary educational plans.

You are hereby *conditionally* admitted for study at Valley City State University beginning with the Fall Semester of 1998. This acceptance is subject to the following conditions: 1) you must complete your high school graduation requirements; 2) you must complete the necessary core course requirements (College Preparatory Course Report Form); and 3) you must submit all of the documents necessary to complete your application file. Please refer to the enclosed VCSU admission requirements form to determine the status of your application file.

Thank you once again for choosing Valley City State University. We look forward to welcoming you to the VCSU community.

Sincerely,

Monte Johnson  
Director of Admission

te  
cc



*again we want to thank you all for the scholarships in which Scott received for school. It will help him in his career as a teacher in elementary ed. my rewarder thank you Linda & Scott  
Cooperstown N. Dak. 58425*

101 College Street SW  
Valley City, ND 58072  
(701) 845-7101

(701) 845-7245

1-800-532-8641

E-Mail: [vcadmiss@plains.nodak.edu](mailto:vcadmiss@plains.nodak.edu)

[www.vcsu.nodak.edu](http://www.vcsu.nodak.edu)

A very special thank you for your  
commitment and dedication to  
Dickinson State University.

Thanks for assisting  
in my success in  
attend Dickinson State.

L. R. A.  
Young

For more information on making gifts to the  
Dickinson State University Foundation, Inc.,  
contact

Mr. Kevin Thompson  
Director of Development and Alumni Relations

Dickinson State University  
Dickinson, ND 58601-4806  
701-227-2082  
Fax 701-227-3712

*Thank  
You*

*Dickinson State University  
Foundation, Inc.*



**UNIVERSITY OF MARY**

Office of the President

7500 University Drive  
Bismarck, ND 58504-9652  
(701) 255-7500

July 23, 1998

Cynthia Gabel  
Special Programs Coordinator  
Workers Compensation Bureau  
500 East Front Avenue  
Bismarck, ND 58504-5685

Dear Ms. Gabel:

We, at the University of Mary, gratefully acknowledge the scholarship of \$1,500.00 awarded to \_\_\_\_\_ by the Workers Compensation Bureau's Guardian Scholarship Fund. This scholarship assists \_\_\_\_\_ in pursuing personal and professional goals at the University of Mary.

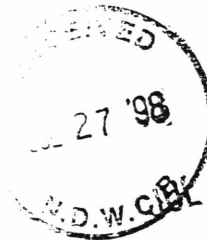
A scholarship program such as yours helps prepare leaders for the challenge of service in the 21st century, an age that will call for dedication and hope.

On behalf of \_\_\_\_\_ and the University of Mary, I thank you for investing in that future. It is because of scholarship support, that the University of Mary is able to deepen and expand its mission of meeting the spiritual, academic and cultural needs of the people in the region.

Sincerely,

Sister Thomas Welder, O.S.B.  
President

STW/mn



JUL 27 1998  
Cindy Gabel

TESTIMONY FOR  
HOUSE BILL 1283

Prepared by Representative Merle Boucher  
Wednesday, January 10, 1999

Chairman Berg and members of the Industry, Business and Labor Committee, for the record I am Merle Boucher, a Representative from District 9, which is Rolette County.

I am here to testify in support of HB 1283.

I am in full support of the sections of the bill that increase the benefit rates for total disability and/or death benefits.

My primary interest in HB 1283, however, is in Section 2 of the bill. Even though the new language is not as liberal as I would like it to be, this is an important move in an appropriate direction. As I understand it, current law confines the bureau to an obligation to educate or retain an injured worker to their existing skill level prior to the injury, this unfortunate inadequacy as was pointed out in the "Zimmerman case." The "Zimmerman case" was bad for the bureau, bad for North Dakota, and a tragedy for the injured worker.

It should be our objective; our responsibility that policy in this regard is to enable the injured worker to become trained so that they are able to sustain and protect their livelihood. It is archaic to think that we would limit, and under current circumstances statutorily we do so, a person's opportunity to improve their situation.

HB 1283 points the issue, that I have discussed previously, in a proper direction. I ask that you support HB 1283, and would sincerely thank you for a yes vote.

**1999 House Bill No. 1283 -- DEATH BENEFITS**  
Testimony before the Senate Industry, Business, and Labor Committee  
March 3, 1999  
Presented by Julie Leer, Attorney  
North Dakota Workers Compensation Bureau

Mr. Chairman, Members of the Committee:

My name is Julie Leer and I am an attorney for the Workers Compensation Bureau. I am here today to testify in support of 1999 House Bill No. 1283. This Bill is to increase survivors' benefits for the surviving spouses and dependent children of workers who die as a result of work injuries. The Workers Compensation Board of Directors unanimously supported this bill.

**BACKGROUND – 1997 Legislative Changes:** In 1997, the Legislative Assembly approved several increases in death benefits:

- 1) Increased the minimum and maximum benefits to match the benefit rates for wage-loss benefits. As of July 1, 1998, the maximum weekly benefit is \$417 (100% of the state's average weekly wage) and the minimum weekly benefit is \$251 (60% of the state's average weekly wage). These maximum and minimum benefits change each year as the state's average weekly wage changes. Job Service North Dakota determines the state's average weekly wage which takes effect on July 1<sup>st</sup> each year. Previously, the maximum weekly death benefit payable was \$210 and the minimum was \$105.
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**PUBLIC INPUT:** Several months ago, the Bureau's chief operating officer, Reagan Pufall was contacted by a woman from Minot, Ms. Sabra Kleppen, whose husband died in a work-related explosion 16 years ago. She related to Reagan that her husband was earning about \$35,000 a year at the time of the accident, but that due to the limitations on death benefits in the workers' compensation act, she has been receiving \$105/week for the past 16 years. She had heard that some changes had been made to the survivors' benefits statutes that increased benefits for deaths claims filed after July 31, 1997 and she inquired whether the law could be changed to provide those higher

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**Section 1** also brings the ongoing death benefit levels in line with the levels used for temporary total disability benefits. This change is being made to **accommodate** the anticipated increase in the maximum weekly benefit for temporary total **disability** to 110% of the state's average weekly wage proposed by 1999 Senate Bill **No. 2214.**

The final change in **section 1** is in response to the concern raised by Ms. Kleppen. It allows the Bureau to apply the increased maximum rate prospectively to **prior** claims that did not have the benefit of the increased rate enacted in 1997. This **increased rate** will be provided to 59 families receiving death benefits.

The changes in **section 2** double the scholarship benefits available to **the** spouses and dependent children of workers who die as a result of work injuries. **Since** implementing this statute in 1997, the Bureau has been able to reassess what the **financial** needs of students are. Most of the scholarships we awarded were for students **attending** North Dakota colleges and universities. In reviewing the increases in the costs of higher education at the state-funded schools, the Bureau found that \$3000 of scholarship money a year will help cover the costs of education to a greater degree, **but** will not give a recipient a "free ride". We hope to assist the serious students and **give them** an opportunity they might not otherwise have. (Copies of the results of a **survey** targeting the 1997 scholarship recipients and of thank-you notes received from **some** of the scholarship recipients and schools are included with my testimony.) The Bureau is also requesting that you add \$50,000/year to the fund for the coming biennium to allow for a higher number of awards at an increased value.

Additional changes in **section 2** will allow the Bureau to award scholarships in exceptional circumstances, such as for injured workers like Josh Zimmerman. Josh Zimmerman was the young man who was severely injured in a **work-related** accident in Grand Forks. He filed suit against his employer, even though he received workers' compensation benefits. While 1999 House Bill No. 1331 was introduced to codify the holding of the ND Supreme Court in that case, the Bureau has decided to **take** this opportunity to provide greater benefits to injured workers for whom the **current** benefit structure **appears** inadequate.

The Bureau, of course, paid all the medical expenses in connection with Josh's injury. Josh was a high school student, however, working at a low wage, **part-time** job when he



was injured. Because he was a low wage earner and worked very few hours a week, it was relatively easy to identify a job within his capabilities that would match his preinjury earnings. Therefore, under the vocational rehabilitation statutes, Josh was ineligible for a vocational rehabilitation plan of training.

While many injured workers are found not to be eligible for training, the exceptional circumstance in this case is that Josh was quite young when the injury happened and his future working career was still somewhat indeterminate. Most injured workers who are not found eligible for training are adults who have developed career skills that allow them to return to work without training. This bill would make the scholarship program available to someone like Josh, perhaps allowing the person to receive financial assistance for school if the unique facts of the case show that an exceptional situation exists. Necessarily, however, this provision also allows the bureau complete discretion in awarding scholarships under these exceptional circumstances. The vocational rehabilitation statutes under which the Bureau operates are sufficient in most cases to restore an injured worker to substantial gainful employment within their potential. In an exceptional case, however, where the injured worker's potential may not be developed as a result of a work injury, the Bureau would like to have the tools in place to allow us to assess whether something more should and could be done. It is of the utmost importance that the Bureau has discretion in making these decisions so that this does not become a source of litigation.

The change in **section 3** increases the burial expenses payable for the funeral of a worker who dies as a result of a work-related accident or illness. While research conducted shows that in many states the average costs of a funeral are between five and six thousand dollars, information received from funeral homes across North Dakota indicated that the average cost of a funeral is between \$5500 and \$7000.

The change proposed in **section 4** would allow the Bureau to increase the supplementary benefits of people who are eligible due to having received death benefits for at least 10 years. Again, this change is prompted by the concern raised by Ms. Kleppen. With the proposed language change, the Bureau can award supplementary benefits to people receiving death benefits at rates which are less than 60% of the current state's average weekly wage. This provision will increase the benefits of approximately 267 families.

The effective dates found in **section 5** provide that the increases in death benefits and supplementary benefits are effective prospectively and that the increases in death benefits will not be applied to a person who has received an increase in supplementary benefits. This explains why so many more recipients will see an increase in supplementary benefits provided under section 4 of the bill instead of in the benefits provided in section 1 of the bill.

The Bureau requests your favorable consideration of 1999 House Bill No. 1283. If there are any questions, I'll attempt to answer them at this time. Thank you.

# Fact Sheet

## HOUSE BILL NO. 1283 SURVIVORS BENEFITS AND SCHOLARSHIPS

Prime Sponsor: Representative Al Carlson

- **Facts about work-related death claims:**
  - 12 North Dakotans died in work-related accidents in 1998.
  - 6 of the 12 deaths in 1998 were caused by motor vehicle accidents.
  - 14 North Dakotans died in work-related accidents in 1997.
  - 7 of the 14 deaths in 1997 were caused by falls from an elevation
  - The industry experiencing the most work-related deaths is construction.
  - Other industries experiencing a higher number of work-related deaths include government- and agriculture-related industries.
  - Over the past five years, we have experienced 68 work-related accidents causing death. Nearly 1/3 of these deaths have been caused by motor vehicle accidents.

### BILL SUMMARY

- **Doubles the lump-sum benefits and maximum scholarship awards for surviving dependent children and spouses of workers who die as a result of work injuries.**
  - Proposed benefit to spouse or guardian of decedent's children: from \$600 to \$1,200.
  - Proposed benefit to each dependent child: from \$200 to \$400.
  - Proposed maximum scholarship: \$1,500/ year to \$3,000/ year (up to 5 years).
  - Total scholarship money available raised from \$100,000 to \$150,000. (1997-98 Scholarship Committee consisted of 1 labor representative, 1 employer representative, and one safety representative.)
- **Increases the benefit paid to cover funeral costs.**
  - Funeral expense allowance raised from \$5,000 to \$6,500.
  - A survey of funeral homes around the state showed an average funeral cost between \$5,000 and \$7,000.

- **This bill allows monthly death benefit rate increase enacted in 1997 to apply to the families of workers who died before the 1997 law change, if their families are not yet entitled to supplementary benefits (which help some longer-term recipients (10 years) receive COLAS).**
- **If the family is currently entitled to supplementary benefits (receiving benefits 10 years), the increase in supplementary benefits payable to survivors will be increased, regardless of the date of death of the worker.**
- **Makes scholarships available to injured workers in exceptional circumstances. Examples include situations where the vocational rehabilitation program cannot quite address all of the workers' special situational needs as they relate to educating/training an injured worker for a new career.**

TESTIMONY FOR  
HOUSE BILL 1283

Prepared by Representative Merle Boucher  
Wednesday, March 3, 1999

Chairman Mutch and members of the Industry, Business and Labor Committee, for the record I am Merle Boucher, a Representative from District 9, which is Rolette County.

I am here to testify in support of HB 1283.

I am in full support of the sections of the bill that increase the benefit rates for total disability and/or death benefits.

My primary interest in HB 1283, however, is in Section 2 of the bill. Even though the new language is not as liberal as I would like it to be, this is an important move in an appropriate direction. As I understand it, current law confines the bureau to an obligation to educate or retrain an injured worker to their existing skill level prior to the injury, this unfortunate inadequacy as was pointed out in the "Zimmerman case." The "Zimmerman case" was bad for the bureau, bad for North Dakota, and a tragedy for the injured worker.

It should be our objective; our responsibility that policy in this regard is to enable the injured worker to become trained so that they are able to sustain and protect their livelihood. It is archaic to think that we would limit, and under current circumstances statutorily we do so, a person's opportunity to improve their situation.

HB 1283 points the issue, that I have discussed previously, in a proper direction. I ask that you support HB 1283, and would sincerely thank you for a yes vote.