

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1281

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1281

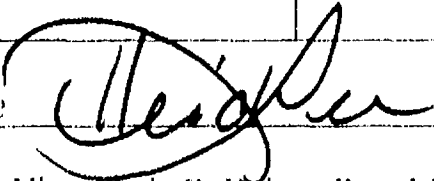
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1281

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Jan 30, 2001

Tape Number	Side A	Side B	Meter #
2		X	26.9
3	X		-7.66
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pletsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Frank Wald: I'm sponsoring this bill to remove Workers Comp from the biennial appropriations process. Workers Comp could run as a normal business with out constantly checking in with the committee to make small decisions.

Chairman Berg: Has the legislature been holding Work Comp. back or guiding them?

Rep Wald: The Workers Comp. Bureau has been creative and proactive and we continually check our progress versus other states. Our combined efforts have helped them grow.

Rep Ruby: Would this bill make the Bureau stronger in privatization?

Rep Wald: That is not the specific intent of the bill.

Dick Johnson: *ND Workers Comp Board* We support this bill fully. It is very difficult to create a two year budget.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1281

Hearing Date Jan 30, 2001

Mary Skar: I also support this bill.

Tammy Dolan: *ND Workers Comp.* **Written testimony in support of bill.**

Rep Lemieux: Do you prefer HB 1419 over Section 9?

Dolan: Yes.

Dave Kemnitz: I oppose, going off budget is another move towards privatization and should have some strings attached.

Chairman Berg: We'll close HB 1281.

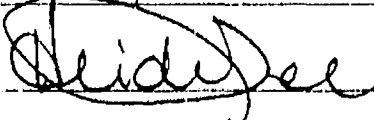
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1281(B)

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date Feb. 7, 2001

Tape Number	Side A	Side B	Meter #
3	X		0-14.6
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Lemieux: I support removing workers comp from appropriations.

Rep Ekstrom: I think it should stay where it is.

Rep Lemieux: I move to strike sections 8 and 9.

Rep M. Klein: I second.

Rep Lemieux: I move a do pass as amended.

Rep Keiser: I second.

11 yea, 3 nay, 1 absent Carrier Rep Keiser

FISCAL NOTE
Requested by Legislative Council
02/22/2001

Bill/Resolution No.:

Amendment to: Engrossed
 HB 1281

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

**NORTH DAKOTA WORKERS COMPENSATION
2001 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION**

BILL DESCRIPTION: Remove NDWC from Biennial Appropriation Process

BILL NO: ReEngrossed HB 1281

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

The re-engrossed bill removes NDWC from the legislative appropriations process; requires NDWC to report to the Legislative Assembly on biennial expenditures for the most recent biennium; and provides that the bill is effective through June 30, 2005.

FISCAL IMPACT: We understand that the proposed legislation will not change NDWC's operating cost levels. Thus, we do not anticipate any change to rate and reserve levels for fiscal year 2001-02.

DATE: February 26, 2001

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Kramer	Agency:	ND Workers Compensation
Phone Number:	328-3856	Date Prepared:	02/26/2001

FISCAL NOTE

Requested by Legislative Council
02/09/2001

Bill/Resolution No.:

Amendment to: HB 1281

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

NORTH DAKOTA WORKERS COMPENSATION 2001 LEGISLATION SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Remove NDWC from Biennial Appropriation Process

BILL NO: Engrossed HB 1281

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

The proposed legislation removes NDWC from the legislative appropriations process and requires NDWC to report to the Legislative Assembly on biennial expenditures for the most recent biennium.

FISCAL IMPACT: We understand that the proposed legislation will not change NDWC's operating cost levels. Thus, we do not anticipate any change to rate and reserve levels for fiscal year 2001-02.

DATE: February 12, 2001

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Krarner	Agency:	ND Workers Compensation
Phone Number:	328-3856	Date Prepared:	02/12/2001

FISCAL NOTE

Requested by Legislative Council
01/16/2001

Bill/Resolution No.: HB 1281

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

NORTH DAKOTA WORKERS COMPENSATION 2001 LEGISLATION SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Remove NDWC from Biennial Appropriation Process

BILL NO: HB 1281

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

The proposed legislation removes NDWC from the legislative appropriations process; requires NDWC to report to the Legislative Assembly on biennial expenditures for the most recent biennium; and requires a study on competition.

FISCAL IMPACT: We understand that the proposed legislation will not change NDWC's operating cost levels. Thus, we do not anticipate any change to rate and reserve levels for fiscal year 2001-02.

DATE: December 21, 2000

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Paul R. Kramer	Agency:	ND Workers Compensation
Phone Number:	328-3856	Date Prepared:	01/16/2001

Date: 2-7-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~Click here to type Bill/Resolution No.~~ 1281

House Industry, Business and Labor Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended Rereferred to Approp

Motion Made By Lemieux Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm		✓	Rep. Myron Koppang		✓
Rep. Rod Froelich	✓		Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe		✓

Total (Yes) 11 No 3

Absent 1

Floor Assignment Rep Keiser

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

REPORT OF STANDING COMMITTEE

HB 1281: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1281 was placed on the Sixth order on the calendar.

Page 1, line 2, after the second comma insert "and" and remove ", and 65-05-20.1"

Page 1, line 3, remove "; to"

Page 1, line 4, remove "provide for a legislative council study"

Page 5, remove lines 13 through 31

Page 6, remove lines 1 through 6

Renumber accordingly

2001 HOUSE APPROPRIATIONS

HB 1231

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1281

House Appropriations Committee

☐ Conference Committee

Hearing Date February 16, 2001

Tape Number	Side A	Side B	Meter #
02-16-01 tape #1		2165 - 6230	
02-16-01 tape #2	0 - 947		
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

The committee was called to order, and opened the hearing on HB 1281.

Rep. Al Carlson: This bill removes the Workers Compensation Bureau from the biennial appropriations process. This bill is intended to reduce your burdensome workload. The meat of the bill is on page three, where it talks about the continuing appropriation. At lines 14 and 15, does not have the engrossed version, it says all moneys in the Workers Compensation fund is appropriated on a continuing basis to the Bureau to carry out the purposes of this title. It also goes down to line 20 through 25 that talks about an oversight procedure. That says that between the first and tenth legislative day of each session the Bureau shall file a report of the public hearing before the appropriations committee of each house of the legislative assembly. This report must contain a summary of the Bureau's activities of the proceeding biennium and must include a financial statement summarizing the revenues and expenses of the current biennium and the expected revenues and expenses for the next biennium. Addressees the committee also

as a premium payment. The system today, from the premium payers prospective is much better now than it was years ago. This tool in this bill gives the board the last tool it really needs to be held accountable for the managing of the workers compensation bureau. Several sessions ago we created a board, and took the authority of the appointing of board members from the governor and we moved the board to the operations of the Workers Compensation Bureau. The only tool we did not give them was the budgeting tool. They submit it to you, and this bill gives them that last step that they need. As a premium payer I have watched many good programs come through in the last few years, the safety program, the dividend program. This changes the way we pay and the times payments are paid out. Safety is a critical concern. This is a step forward. Explains a positive phone call he received. The board is doing an excellent job in running the bureau.

Rep. Wald: Should we delete section 9 of the bill?

Rep. Carlson: There is a proposed amendment that will come to you today, and the Bureau people are here, and it is worthy of study. Section 9 is gone from the engrossed bill.

Rep. Martinson: Do you think that we should take all special fund's budgets out of the appropriations process, such as game and fish?

Rep. Carlson: If they had an established board that was running the rest of the operations, I would probably say yes.

Rep. Gulleason: We have the retirement board that handles all the investments and they are similar, do you agree they should not be before appropriations?

Rep. Carlson: Is not familiar with that board. As a premium payer into the WC system, and watching the affects, and with the other authority given them, I believe this about WC. If we

privatize the system, then we have no legislative control, and the premiums would probably be higher.

Rep. Martinson: Do you think it's at least debatable of whether the WC fund is in such good shape because of the board or because of the legislative process.

Rep. Carlson: Some of each. He's been part of ongoing legislation for years. He is part of this system. The injured worker is getting better treatment than ever and better benefits, and many of those have been legislative initiatives. But some have come from the Bureau.

Rep. Koppelman: Agrees that the changes have been positive. Hasn't heard why this proposal would make it even better. How would things improve?

Rep. Carlson: The fact that legislative oversight is still there it creates an accountability of a government agency. But they are also accountable to the premium payer, and that is the benefit of doing this. They have all authority except where the budget goes. If you don't think they can set and run the budget, you should vote no. If what they bring in year after year and the policy is good for the premium payer and the worker then you should vote yes.

Rep. Gulleason: When you speak about legislative oversight, I don't see it. We have basically reduced the budget to a line item or two, and have little ability to direct those. Now if we take the budgeting out and not have the ability to impact that anyway, how would I when I get a call from an injured worker impact WC? They don't have to answer to me at all.

Rep. Carlson: Differs, they do have to. They do care. Let the Board run the bureau. If they mess up, next session we can get it back.

Rep. Gulleason: In view of the scope of the legislature and in the eyes of the citizens, as long as WC operates under the seal of the state of ND, the citizens are assuming we are the ultimate board.

Chairman Timm: The report that's referred to on page 3, would that report be a complete line by line item itemized report of the bureau's budget.

Rep. Carlson: That is his intention.

Rep. Delzer: If this was granted and somewhere down the road the legislature decided this was a mistake, what would it take to get it back?

Rep. Carlson: It would take another bill.

Rep. Glassheim: I think you are overemphasizing the single importance of the payers. There are at least three parties that have an interest in WC system. The payers, the workers who have given up a right to sue, and the citizen who has an interest in knowing that things are being done right and well. It's not just the payers who are involved. Doesn't understand why the legislature would keep the general oversight, rather than putting it into the private board. It is a government created monopoly, and so it seems odd to remove it from biennial review.

Rep. Carlson: Takes them back to lines 20-25 on page 3 that discusses the oversight. He agrees that there are more legs on the stool than the premium payers.

Rep. Wald: Explains some of what has happened in proposing this legislation for the injured worker. Also he explains some of what happens in South Dakota regarding Workers Compensation, that is privatized.

Dick Johnson, member of the board of the ND Workers Compensation system, chairman of the audit committee board: Had prepared written testimony. Is testifying in support of engrossed HB 1281. The board unanimously supports this bill.

Rep. Skarphol: Do you think that giving you this budgetary authority will allow you or the bureau to keep less precise records on how they do business, or will this give them an opportunity to provide us with a new method of explaining the activities.

Dick Johnson: As chair of the audit committee he reviews results of the bureau's operations on a quarterly basis. He meets with the bureau staff, and these internal audit reports are reviewed, and then he brings them to the board. He went through all that is done internally with the audit reviews...

Rep. Skarphol: The question is if I as a legislator come to you and ask for these audit reports, will they be provided to me? Again, is this an opportunity to provide less information or more information?

Dick Johnson: Yes you could get the audit reports. The information would be available to anyone who needs it.

Rep. Gulleason: Has the board endorsed privatization, and are you willing to embrace that and go forward. We are only 1 of five or six states that have not done so. We should move there.

Dick Johnson: What the board is asking, there has been no decision or direction by the board toward privatization. The board is asking for an amendment to provide a study giving the positive and negatives of privatization in ND. The board has not made a decision one way or the other on that issue, until we have the information that we need to properly make that decision. And the decision would need to be made with the blessing of the legislature.

Rep. Gulleason: I can't imagine if you don't want to have to go through the legislative process with budget or personnel system, why you wouldn't want to privatize. Unless you are afraid of moving away from the monopolistic system and you would have to compete.

Dick Johnson: The options to the board in the area of privatization would be to compete in the private sector. Some states have gone that way. Prior to that happening the bureau would have to be ready for that. In order to be ready, the bureau would have to have a marketing

department or a system to market with other agents. This legislation would allow the bureau to operate as a business. Currently we are given the responsibility and directives of what we have to do, but we do not have the flexibility on the budget side to do that.

Rep. Aarsvold: Can you cite an example to us of actions we have taken as a legislative assembly that have made things difficult as an agency.

Dick Johnson: An example would be in the last legislative assembly the board requested additional FTE's so we could increase staff positions in areas that the board and staff felt necessary. We were not given additional FTE's, and as a result we were required to continue to contract with outside services, that cost funds.

Rep. Glassheim: Could I get a copy of the performance evaluation recommendations. Are there other areas where you anticipate great gains to the health of the system. One seems to be an annual flexibility instead of biennial review.

Dick Johnson: Enactment of HB 1281 would allow the board additional flexibility in the budgeting process and allow the board to react to whatever is happening. We would not have to wait for the next session. We would have to come back and report to the next session.

Rep. Glassheim: Although we would receive a report we would have no effective oversight. The report is just a report, we just look at it.

Dick Johnson: Sees it differently. The legislature sets all the requirements that the bureau has to perform. You set all benefit levels. The legislature today does not set premium levels, that is done on the bureau level. The only thing you would see after the fact would be the bureau budget.

Rep. Glassheim: This also would take the governor's office and OMB out of the balance and review process, right? The checks and balances would be gone.

Dick Johnson: Yes.

Rep. Skarphol: Wants to point out from the Hayes report that there were 138 or 139 recommendations. One of them is recommendation 79 or 80, that is a high priority. The Hayes group recommends that the budgetary process be moved from a biennial process to an annual budgetary process.

Paul Kramer, Executive Director of ND Workers Compensation: Tammy Dolan handed out her written testimony. He had handed out a proposed amendment. Responds first to a few questions previously asked, regarding bringing the report to the legislature rather than having the legislature make the decisions.

Rep. Martinson: Any department head or any state elected official could come down here and say the same exact thing. That they can manage their departments better than we can every other year.

Paul Kramer: But not every other agency has a board that was statutorily put in place to manage the operations of that agency. Two sessions ago, the board was created to oversee the operations, and gave them the authority to run the system. If you do that for other agencies I would support their request.

Rep. Martinson: Couldn't you make the same argument about a duly elected constitutional official in ND answers to the public and they shouldn't have to come down here and discuss budgets every other year.

Paul Kramer: If that duly elected official is spending special fund dollars instead of general fund tax dollars he would agree. The bureau is entirely funded by employer premiums and has no general fund allocation. The board was put in place to take politics out of WC.

Rep. Aarsvold: Has not been an employer paying into the system. But we require all employers to be part of the system, right?

Paul Kramer: There are some exceptions, like agriculture, or family members.

Rep. Aarsvold: If there is an obligation that we make with the public, business sector, how is that different than a tax?

Paul Kramer: In a way it basically is like a tax. Part of this that should be explained is that right now 90% of the money we spend goes for benefits. That 90% is controlled by the benefit levels you set in title 65. We have no control over that. 10% of our budget goes for operations. If you pass this bill, you will still control 90% of our budget through the benefit levels you set for injured workers. The part you are giving up direct control of is the 10% that goes for day to day operations.

Rep. Glassheim: Is there any back up data on the report he would like to see it. The report is a conclusion. He wants to know of the problems that led to the conclusion.

Paul Kramer: There are explanation paragraphs leading up to every conclusion in there.

Rep. Glassheim: Would you have the capability now of going to any interim committees to get authorization for new spending or switching of positions. Isn't there already a process in place.

Paul Kramer: We can reallocate FTE's now. The problem is not in reallocating but we are limited in how many we can have. If we knew of the problems coming in the next three years, we wouldn't need this bill. We could go to the emergency commission to ask for spending authority. Before we do the proposed amendments, there was a question earlier on claims. He gives some statistics to show what has happened in the history of claims..

The bill when it was presented to HB&L had a study attached to it. The board supports the study, and if you adopt this amendment to put a study back in, it would not be through the insurance commissioner, but through a study by an outside industry expert hired by the legislative council. WC would fund the study on privatization. We don't have enough information on this topic yet.

Rep. Wald: What did the Hayes study cost?

Paul Kramer: That was about \$150,000 for a biennial performance evaluation, and took about 6 - 8 months.

Rep. Koppelman: On the amendment, you indicated a previous version had a study by the insurance commissioner's office, and this calls for an industry expert to conduct the study. Shouldn't there be more interaction with a legislative interim committee rather than the study being done and presented next session, and we would be no better prepared to make that decision.

Paul Kramer: The study would go through the legislative council. They would get the study results and bring it forward to the next assembly. Would guess they would assign it to an interim committee to oversee.

Chairman Timm: The original study in the original bill, that just instructed the legislative council to study, and didn't have any money in it. That is the same amendment you are proposing now, except that you are talking about money in the amendment, and a little more detailed.

Rep. Wald: The legislative audit and fiscal review was given a copy of the Hayes report and we spent several hours going through it step by step, and spent a lot of time on those

recommendations. It was a very in depth study and an interim committee did have the information. We agreed with some recommendations and outright rejected others.

Paul Kramer: Our audit report and the biennial performance evaluation would continue to go before the audit and fiscal review committee as they do now. None of that is being changed. That report is also given to the House and Senate IB&I committees each session. That would not change either. The accountability is there in many ways.

The chairman closed the hearing on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1281

House Appropriations Committee

☐ Conference Committee

Hearing Date February 21, 2001

Tape Number	Side A	Side B	Meter #
02-21-01 tape #1	3240 - 5180		
Committee Clerk Signature <i>Robert Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1281, dealing with the Workers Compensation Bureau.

Rep. Skarphol: As far as HB 1281 goes, I think that we need to seriously consider this, taking Workers Compensation out of the political arena. This doesn't mean we loose any oversight and control. He gave some history on happenings last session. Does think that a four year sunset clause should be attached to the bill. Moves to add an amendment. Rep. Kempenich seconded.

Rep. Delzer: Is the sunset clause to be until June 30, 2005?

Response: yes.

Rep. Guleson: She had passed around a list of Information Regarding Special Funded State Agencies, under the oversight of boards. The code is clear that these are governed by the

board. She has major concerns over who has the final oversight of the board and workers compensation.

Rep. Skarphol: We had already amended a study of workers compensation onto HB 1419. He responds to Rep. Gulleeson, and asks that even if she doesn't agree to the bill, she should support the sunset amendment.

Rep. Wald: On page 3 of the engrossed bill, lines 20 through 25 says the Bureau would come before the legislature to explain what they are doing. Does not see this as any different than the mill and elevator.

Rep. Gulleeson: But the Industrial Commission brings the budget with the state mill and elevator before the committee. That's the difference.

Voice vote adopts the amendment.

Rep. Skarphol: Moves DO PASS AS AMENDED. Rep. Wald seconded.

Rep. Skarphol: He's not sure he support the move of letting higher education taking some of their money off budget, and he's opposed to that because its tax dollars to a large extent. In this case some are opposing this when its employer premiums requested to be taken off budget. This is a board of employers and employees, and the move is not to change how benefits are paid. Its just to try to finish getting this out of the political arena.

Rep. Glassheim: This entire system is created by the state, created by state law and the legislature. The last few years of reform have been led by legislatures. The health of the Bureau has been helped by the legislature, and the control has helped it. If there is any trouble, it will be back here to fix it. Having the oversight of the budget seems best and has good virtue.

Rep. Byerly: In the 1995 session, we tried to amend this into a single line item budget. Then we were told that we should not do this because they did not have adequate oversight by a

Page 3

House Appropriations Committee

Bill/Resolution Number HB 1281

Hearing Date February 21, 2001

board. Now its 6 years later, and they do have a board, we have a sunset clause, and we should give it a try. Let them give a report in two years, and see where it takes us.

Vote on Do Pass as Amended: 8 yes, 13 no, 0 absent and not voting. Motion fails.

Rep. Wentz: Moves DO NOT PASS AS AMENDED. Rep. Monson seconded.

Vote on Do Not Pass as Amended: 13 yes, 8 no, 0 absent and not voting. Motion passes.

Rep. Gulletson is assigned to carry this on the floor.

Proposed Amendments to Engrossed House Bill No. 1281

Page 1, line 3, after "process" insert "; to provide for a legislative council study"

Page 5, after line 12, insert:

"SECTION 8. LEGISLATIVE COUNCIL STUDY OF WORKERS' COMPENSATION INSURANCE. During the 2001-02 Interim, the legislative council shall hire an industry expert to conduct an independent study of the effects of competition on workers' compensation premiums; anticipated impact on rates; services provided to injured workers; and coverage of small, medium, and large employers, and of the feasibility and desirability of allowing employers to obtain private insurance or be self-insured for purposes of workers' compensation. The study must also determine if North Dakota has a large enough economic base to support workers' compensation competition. Legislative Council shall report its findings and recommendation, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

SECTION 9. APPROPRIATION. There is appropriated out of any moneys in the workers' compensation fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the legislative council for the purposes of funding the study of workers' compensation insurance required in section 8 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1281

Page 1, line 3, remove "and"

Page 1, line 4, after "appropriation" insert "; and to provide an expiration date"

Page 5, after line 12, insert:

"SECTION 8. EXPIRATION DATE. This Act is effective through June 30, 2005,
and after that date is ineffective."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

HOUSE - This amendment adds a section that provides that the bill is effective through June 30, 2005, and after that date is ineffective.

Date: 2-21-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1281

House APPROPRIATIONS

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

18286.0202

Action Taken

to amend to add sunset clause to 6/30/05

Motion Made By

Rep. Skarphol

Seconded
By

Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Guleson			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Carried

Date: 2-21-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1703 1281

House APPROPRIATIONS

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Skarphol Seconded By Rep. Wald

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold		✓	Rep - Koppelman		✓
Rep - Boehm	✓		Rep - Martinson		✓
Rep - Byerly	✓		Rep - Monson		✓
Rep - Carlisle		✓	Rep - Skarphol	✓	
Rep - Delzer	✓		Rep - Svedjan	✓	
Rep - Glassheim		✓	Rep - Thoreson		✓
Rep - Gulletson		✓	Rep - Warner		✓
Rep - Huether		✓	Rep - Wentz		✓
Rep - Kempenich	✓				
Rep - Kerzman		✓			
Rep - Kliniske		✓			

Total (Yes) 8 No 13

Absent 0

Floor Assignment _____

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

fails

Date: 2-21-01
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1281

House APPROPRIATIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

18286.0202

Action Taken

DO NOT PASS AS AMENDED

Motion Made By

Rep. Wentz

Seconded
By

Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman		✓			
Wald - Vice Chairman		✓			
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm		✓	Rep - Martinson	✓	
Rep - Byerly		✓	Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol		✓
Rep - Delzer		✓	Rep - Svedjan		✓
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulletson	✓		Rep - Warner	✓	
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich		✓			
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 13 No 8

Absent _____

Floor Assignment Rep. Gulletson

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

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1281

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1281

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 05, 2001.

Tape Number	Side A	Side B	Meter #
1		x	39.9 to end
2	x		0 to 8.8
(03/12/01) 2	x		48.4 to 50.9
Committee Clerk Signature <i>Doris E. Poirer</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1281 relating to remove the Workers' Compensation Bureau from the biennial appropriations process; to provide an appropriation; and to provide an expiration date.

Bob Indvik, Vice-Chairman, ND Workers' Compensation Board of Directors, provided brief description of the bill and the Boards' position: in favor.

Representative Al Carlson, District 41, Co sponsor. This bill would give Workers' Comp the tools to do their budgeting process. This is a change in process. Bill allows the Board of Directors to establish their budgeting process with legislative oversight.

Tammy Dolan, VP for Employer and Fiscal Services at NDWC. In support of the bill. Written testimony attached.

Senator Klein: Where do the eleven million dollar come from?

T Dolan: Employers' premiums that the appropriations committee is distributing.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1281

Hearing Date March 05, 2001.

Senator Klein: Would this be a step towards privatizing Workers' Comp.?

T Dolan: I see that as two separate issues. HB 1419 would address a study of the effects of having competition and privatization of workers compensation industry in ND.

Chuck Peterson, GNDA, in support of this bill. Written testimony attached.

Senator Krebsbach: Do you anticipate bringing changes in the code to the legislature?

C Peterson: Yes legislature will always be the Big Board.

Senator Mathern: Will it still be open record?

T Dolan: Yes because we would still be a state agency.

No opposing testimony Hearing concluded.

March 12, 2001. Tape 2-A-48.4 to 50.9

Committee reconvened. All members present.

Discussion held. **Senator Espegard:** Motion : do not pass. **Senator Tollefson:** Second.

Roll call vote: 6 yes; 0 no; 1 absent not voting. Floor assignment: **Senator Tollefson**

Date: 3/12/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HB 1281*

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken

Motion Made By

Seconded

By

[illegible]

Total (Yes) 6 No 0

Absent /

Floor Assignment Sen. Tolson

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

REPORT OF STANDING COMMITTEE (410)
March 12, 2001 4:21 p.m.

Module No: SR-42-5414
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1281, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1281 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1281

House Bill No. 1281

**Fifty-Seventh Legislative Assembly
Before the Industry, Business and Labor Committee,
January 30, 2001
Testimony Regarding Removing Workers Compensation
from the Biennial Appropriations Process**

Mr. Chairman, Members of the Committee:

My name is Tammy Dolan, and I am the Vice President for Employer and Fiscal Services at North Dakota Workers Compensation (NDWC). I am here today to testify in support of House Bill No. 1281 that removes NDWC from the biennial appropriations process, provides for a legislative council study on introducing competition into the workers compensation system, and provides for a continuing appropriation for all workers compensation expenses. The Workers Compensation Board of Directors unanimously supports this bill.

NDWC is required by NDCC §65-02-30 to conduct an independent performance evaluation every biennium. The most recent evaluation was completed in September 2000 by The Hays Group of Minneapolis, Minnesota, which specializes in workers compensation consulting. One of their recommendations was that the NDWC "budgetary process be moved from a biennial process with legislative approval to an annual budgetary process not requiring legislative approval." The rationale included the fact that NDWC does not receive any general fund monies, meaning that all expenses are paid with premium dollars.

NDWC appropriated expenses do not include any costs related to claims benefits expenditures, such as indemnity payments, medical and allocated costs. Rather, they reflect only administrative expenses. Claim related expenses are authorized through a continuing appropriation and are reported to the Legislative Audit and Fiscal Review Committee annually through audited financial statements. Appropriated (administrative) expenses are a small portion of the total annual expenses. For the year ended June 30, 2000, total claim related expenses were \$97.6 million, while appropriated, administrative expenses were \$11.2 million, or 10.3% of the total. NDWC's administrative expense ratio has consistently remained around 10% for several

years and is among the lowest of all workers compensation funds nationwide. Most funds average 20 – 30 % in annual operating costs.

The financial and FTE restrictions of the appropriation forces NDWC to contract for services (such as medical bill review, utilization review, and information systems development) at a significantly higher cost than if it could hire FTEs to do the same work. Over the years, the savings (estimated at \$4.2 million for the 2001 – 2003 biennium) to the workers' compensation fund would be tremendous. When faced with similar circumstances again, and without approval of this bill, NDWC would be forced to choose the option that is most costly to the fund because of the appropriation and FTE limits.

House Bill No. 1281 would give NDWC's Board of Directors the authority to establish an annual budget encompassing all operating costs. Budgeting on an annual basis would provide the flexibility to react to changes in the workers' compensation industry in an expedient manner. It would also allow NDWC to maintain and enhance its technology systems, including developing a larger presence on the internet, to ensure all customers receive the exemplary services they deserve.

While the bill would remove NDWC from the appropriations process, it would not be detrimental to the other reporting mechanisms currently in place. The Board closely monitors the activities and financial results of NDWC through quarterly reports. NDWC financial statements are audited annually by an independent accounting firm and the results are presented to the Board of Directors and the Legislative Audit and Fiscal Review Committee. Historically, NDWC has always received an unqualified, or clean, opinion from this audit process. As mentioned earlier, a biennial performance evaluation is also conducted by an independent workers compensation industry expert. The performance evaluation report is presented to the Board of Directors, the Legislative Audit and Fiscal Review Committee, and the Legislative Assembly. NDWC also prepares a statutory biennial report. None of these reporting elements would be eliminated by this bill.

In addition to the above reporting requirements, **Section 4** of House Bill No. 1281 requires NDWC to report the results of its operations, statement of financial position, statement of revenues and expenditures for the current biennium, and statement of expected revenues and expenditures for the next biennium to each house of the Legislative Assembly at the start of each legislative session. These reporting procedures would ensure that the Legislative Assembly would at all times be completely aware of the status of the Workers Compensation fund so it could address any deficiencies.

House Bill No. 1281 does not impact the current process to address complaints by injured workers, employers or medical providers. NDWC attempts to answer all questions and resolve all complaints internally. Typically, if this fails, the Governor, legislators, and the Board of Directors are contacted about any concern and they ask NDWC to address the issue at hand. Appeals to formal decisions are reviewed by the Office of Independent Review and proceed through the court system if necessary. This bill changes none of that.

NDWC awards annual scholarships to the surviving spouse and dependent children of a worker who dies as a result of a compensable workplace injury. Since 1997, 129 scholarships have been awarded totaling \$307,500. **Section 8** removes the \$150,000 annual limit on the scholarships available. This bill give the Board of Directors the responsibility and latitude to identify the total amount to be awarded for scholarship each year.

Section 9 directs the Legislative Council to conduct an interim study on the impact of introducing competition to the workers' compensation system. The study would include the anticipated impact on rates and benefits and the impact on the fund as a whole. The Legislative Council report, including its findings, recommendations, and any necessary legislation to implement the recommendations, would be presented to the 2003 Legislative Assembly.

NDWC and its Board of Directors request your favorable consideration on House Bill No. 1281. If there are any questions, I would be more than happy to try to answer them at this time. Thank you.

2-16-01
HB 1281

Engrossed House Bill No. 1281

**Fifty-Seventh Legislative Assembly
Before the House Appropriations Committee
February 16, 2001
Testimony Regarding**

Good morning Chairman Timm, members of the House Appropriations Committee:

I'm Dick Johnsen, and I am a member of the North Dakota Workers Compensation Board of Directors. I am also the chairman of the Board's Audit Committee. I am here today to testify in support of Engrossed House Bill No. 1281. The Board of Directors unanimously voted to support this bill.

Engrossed House Bill No. 1281 would allow the Board the authority to set the workers' compensation budget on an annual basis, and it requires NDWC to report to the Legislative Assembly to explain how funds were spent. It is a recommendation from our most recent performance evaluation. The Board thinks the authority to set the workers' compensation budget annually would allow NDWC to keep up with industry trends and allow most contracted services to be brought in-house. The Board believes this would save funds in the long run.

On behalf of the entire Board, I ask for your favorable consideration on Engrossed House Bill No. 1281.

INFORMATION REGARDING SPECIAL FUNDED STATE AGENCIES

In both the Schafer and Hoeven executive budgets for the 2001-03 biennium, there are 15 state agencies that are recommended to be completely funded with special funds. The following is a listing of those agencies and information regarding whether or not the agency has an advisory board or committee:

Agency		Advisory Board or Committee
140 - Office of Administrative Hearings	Yes	North Dakota Century Code (NDCC) Section 54-57-08 provides that a State Advisory Council for Administrative Hearings shall meet with the director of the Office of Administrative Hearings semiannually to advise the director on policy matters affecting the agency.
190 - Retirement and Investment Office	Yes	NDCC Section 54-52.5-02 provides that the State Investment Board is responsible for overseeing and operating the Retirement and Investment Office.
192 - Public Employees Retirement System	Yes	NDCC Section 54-52-03 provides for a seven-member board known as the Retirement Board which shall serve as the governing authority over the Public Employees Retirement System.
226 - Land Department	Yes	NDCC Chapter 15-01 provides for the Board of University and School Lands, which consists of the Governor, Secretary of State, State Treasurer, Attorney General, and the Superintendent of Public Instruction and shall serve as the governing authority for the Land Department.
324 - Children's Services Coordinating Committee	Yes	NDCC Section 54-56-03 provides that the Children's Services Coordinating Committee serves as the governing body for funds appropriated to the agency of the same name.
401 - Insurance Commissioner	No	
413 - Department of Banking and Financial Institutions	Yes	NDCC Section 6-01-01 provides that the Department of Banking and Financial Institutions is under the control of the State Banking Board, state credit union, and state examiner.
473 - Housing Finance Agency	Yes	NDCC Section 54-17-07.1 provides that the Industrial Commission and a six-member advisory board consisting of representatives of lenders, the residential real estate industry, the mobile home and manufactured housing industry, and homeowners and buyers may adopt rules and regulations for the conduct of the Housing Finance Agency.
475 - Mill and Elevator Association	Yes	NDCC Section 54-18-03 provides that the Industrial Commission is responsible for operation, management, and control of the Mill and Elevator Association.

Agency	Advisory Board or Committee	
485 - Workers Compensation Bureau	Yes	NDCC Section 65-02-03.3 provides that the Workers Compensation Bureau Board of Directors is responsible for overseeing the operation of the Workers Compensation Bureau.
616 - Seed Department	Yes	NDCC Section 4-09-03 provides that the State Seed Commission is the governing board for the Seed Department.
649 - Agronomy Seed Farm	Yes	NDCC Section 4-05.1-19 provides that the State Board of Agricultural Research and Education (SBARE) is responsible for the budgeting, supervision, and policymaking responsibilities associated with the Agronomy Seed Farm.
720 - Game and Fish Department	Yes	NDCC Section 20.1-02-25 provides that the Game and Fish Advisory Board has the authority to advise the director of the Game and Fish Department regarding hunting, fishing, and trapping regulations and may make general recommendations concerning the operation of the department.
770 - State Water Commission	Yes	NDCC Sections 61-02-04 and 61-02-14 provide that a commission consisting of the Governor, the Agriculture Commissioner, and seven other members appointed by the Governor is the governing authority for the agency known as the State Water Commission.
801 - Department of Transportation	No	

2-16-01
HB 1281

Engrossed House Bill No. 1281

**Fifty-Seventh Legislative Assembly
Before the House Appropriations Committee,
February 16, 2001
Testimony Regarding Removing Workers Compensation
from the Biennial Appropriations Process**

Mr. Chairman, Members of the Committee:

My name is Tammy Dolan, and I am the Vice President for Employer and Fiscal Services at North Dakota Workers Compensation (NDWC). I am here today to testify in support of Engrossed House Bill No. 1281 that removes NDWC from the biennial appropriations process and provides for a continuing appropriation for all workers compensation expenses. The Workers Compensation Board of Directors unanimously supports this bill. The House Industry, Business and Labor Committee gave this bill a Do-Pass recommendation by a vote of 11 - 3.

NDWC is required by NDCC §65-02-30 to conduct an independent performance evaluation every biennium. The most recent evaluation was completed in September 2000 by The Hays Group of Minneapolis, Minnesota, which specializes in workers compensation consulting. One of their recommendations was that the NDWC "budgetary process be moved from a biennial process with legislative approval to an annual budgetary process not requiring legislative approval." The rationale included the fact that NDWC does not receive any general fund monies, meaning that all expenses are paid with premium dollars.

NDWC appropriated expenses do not include any costs related to claims benefits expenditures, such as indemnity payments, medical and allocated costs. Rather, they reflect only administrative expenses. Claim related expenses are authorized through a continuing appropriation and are reported to the Legislative Audit and Fiscal Review Committee annually through audited financial statements. Appropriated (administrative) expenses are a small portion of the total annual expenses. For the year ended June 30, 2000, total claim related expenses were \$97.6 million, while appropriated, administrative expenses were \$11.2 million, or 10.3% of the total. NDWC's administrative expense ratio has consistently remained around 10% for several

years and is among the lowest of all workers compensation funds nationwide. Most funds average 20 – 30 % in annual operating costs.

The financial and FTE restrictions of the appropriation forces NDWC to contract for services (such as medical bill review, utilization review, and information systems development) at a significantly higher cost than if it could hire FTEs to do the same work. Over the years, the savings (estimated at \$4.2 million for the 2001 – 2003 biennium) to the workers' compensation fund would be tremendous. When faced with similar circumstances again, and without approval of this bill, NDWC would be forced to choose the option that is most costly to the fund because of the appropriation and FTE limits.

Engrossed House Bill No. 1281 would give NDWC's Board of Directors the authority to establish an annual budget encompassing **all** operating costs. Budgeting on an annual basis would provide the flexibility to react to changes in the workers' compensation industry in an expedient manner. It would also allow NDWC to maintain and enhance its technology systems, including developing a larger presence on the internet, to ensure all customers receive the exemplary services they deserve.

While the bill would remove NDWC from the appropriations process, it would not be detrimental to the other reporting mechanisms currently in place. The Board closely monitors the activities and financial results of NDWC through quarterly reports. NDWC financial statements are audited annually by an independent accounting firm and the results are presented to the Board of Directors and the Legislative Audit and Fiscal Review Committee. Historically, NDWC has always received an unqualified, or clean, opinion from this audit process. As mentioned earlier, a biennial performance evaluation is also conducted by an independent workers compensation industry expert. The performance evaluation report is presented to the Board of Directors, the Legislative Audit and Fiscal Review Committee, and the Legislative Assembly. NDWC also prepares a statutory biennial report. None of these reporting elements would be eliminated by this bill.

In addition to the above reporting requirements, **Section 4** of Engrossed House Bill No. 1281 requires NDWC to report the results of its operations, statement of financial position, statement of revenues and expenditures for the current biennium, and statement of expected revenues and expenditures for the next biennium to each house of the Legislative Assembly at the start of each legislative session. These reporting procedures would ensure that the Legislative Assembly would at all times be completely aware of the status of the Workers Compensation fund so it could address any deficiencies.

Engrossed House Bill No. 1281 does not impact the current process to address complaints by injured workers, employers or medical providers. NDWC attempts to answer all questions and resolve all complaints internally. Typically, if this fails, the Governor, legislators, and the Board of Directors are contacted about any concern and they ask NDWC to address the issue at hand. Appeals to formal decisions are reviewed by the Office of Independent Review and proceed through the court system if necessary. This bill changes none of that.

NDWC and its Board of Directors request your favorable consideration on Engrossed House Bill No. 1281. If there are any questions, I would be more than happy to try to answer them at this time. Thank you.

**House Bill No. 1153, 1161, 1162 and 1260
Engrossed House Bill No. 1419, and 1469
Re-engrossed House Bill No. 1281**

**Fifty-Seventh Legislative Assembly
Before the Senate Industry, Business and Labor Committee
March 5, 2001
Testimony Regarding Workers Compensation Legislation**

Good morning Chairman Mutch, members of the Senate Industry, Business, and Labor Committee:

My name is Bob Indvik, and I am the Vice-Chairman of the North Dakota Workers Compensation Board of Directors. I am also the Chairman of the Board's Legislative Committee. I am here this morning to testify regarding the Board's position on several pieces of legislation that will affect the state's workers' compensation system.

In the rest of time, I will provide you with a brief description of the bills you will be hearing this morning and tell you about the recommendations the Board made regarding each of the bills.

The first is House Bill No. 1153, which the Board supports. House Bill No. 1153 does a variety of things. It redefines "fee schedule". It prohibits an employer from requiring an employee to use personal leave during periods of work-related disability. It also allows NDWC to establish incentives for employers who hire previously injured workers in physically appropriate jobs. And it makes a claimant's social security number private and requires an employer to limit the people who have access to its employees' claim files.

The second is House Bill No. 1161. It would increase the awards given for Permanent Partial Impairments. This bill is a result of an independent PPI study that was mandated by the 56th Legislative Assembly. The Board agrees with the results of the study and supports the bill and its proposed amendment. House Bill No. 1161 would increase awards given for certain amputations and the loss of one eye. It would also adopt the 5th Edition of the AMA Guidelines. The proposed amendment to the bill would reduce the PPI award threshold from 16% to 11% as recommended by the study.

House Bill No. 1162 is also supported by the Board. It changes the supplementary benefit structure to provide for supplementary benefits to be paid to all death benefit recipients or to all permanently and totally disabled workers who have been receiving benefits for an extended period of time.

House Bill No. 1260 would allow an employer with a deductible policy to keep 100% of the recovery in a third-party action if an injured worker and the Bureau chooses not to pursue the third-party for recovery of damages. This bill relates to a small number of employers, and it will not have an impact on rates or reserve levels. The Board supports House Bill No. 1260.

Re-engrossed House Bill No. 1281 would allow the Board to set the workers' compensation budget on an annual basis, and requires NDWC to report to the Legislative Assembly on how its funds were spent. The Board supports Re-engrossed House Bill No. 1281. It is a recommendation from our most recent performance evaluation. The Board believes the authority to set the workers' compensation budget annually would allow NDWC to keep up with industry trends, and to allow most contracted services to be brought in-house and reduce cost.

The Board supports Engrossed House Bill No. 1419. It allocates \$150,000 to the Legislative Council to contract with an industry expert to conduct a study of the effects of opening the state's workers' compensation system to competition. The Board has not taken a position on whether or not competition is appropriate for North Dakota. A study of the pros and cons of competition would be beneficial for the Board and ultimately, will help the Legislative Assembly make an informed decision on this subject.

Finally, the Board has taken a neutral position on Engrossed House Bill No. 1469. It creates exemptions for certain custom agriculture operations. The Board originally opposed this bill when it was introduced, but would have supported a study on the issue.

This concludes my testimony regarding the Board's position on the several pieces of legislation that you have before you this morning. I would encourage you to give favorable consideration to House Bill Numbers: 1153, 1161 with the proposed amendments, 1162, 1260, 1281, and 1419.

NDWC staff will provide you with more details about each of the bills and its effect on the North Dakota Workers Compensation system.

Reengrossed House Bill No. 1281
Fifty-Seventh Legislative Assembly
Before the Senate Industry, Business and Labor Committee,
March 5, 2001
Testimony Regarding Removing Workers Compensation
from the Biennial Appropriations Process

Mr. Chairman, Members of the Committee:

My name is Tammy Dolan, and I am the Vice President for Employer and Fiscal Services at North Dakota Workers Compensation (NDWC). I am here today to testify in support of Reengrossed House Bill No. 1281 that removes NDWC from the biennial appropriations process, provides for a continuing appropriation for all workers compensation expenses, and provides an expiration date of June 30, 2005. The Workers Compensation Board of Directors unanimously supports this bill. The House approved this bill by a vote of 53 - 45.

NDWC is required by NDCC §65-02-30 to conduct an independent performance evaluation every biennium. The most recent evaluation was completed in September 2000 by The Hays Group of Minneapolis, Minnesota, which specializes in workers compensation consulting. One of their recommendations was that the NDWC "budgetary process be moved from a biennial process with legislative approval to an annual budgetary process not requiring legislative approval." The rationale included the fact that NDWC does not receive any general fund monies, meaning that all expenses are paid with premium dollars.

NDWC appropriated expenses do not include any costs related to claims benefits expenditures, such as indemnity payments, medical and allocated costs. Rather, they reflect only administrative expenses. Claim related expenses (which are 90% of NDWC annual costs) are already authorized through a continuing appropriation and are reported to the Legislative Audit and Fiscal Review Committee annually through audited financial statements. Appropriated (administrative) expenses are a small portion of the total annual expenses. For the year ended June 30, 2000, total claim related expenses were \$97.6 million, while appropriated, administrative expenses were \$11.2 million, or 10.3% of the total. NDWC's administrative

expense ratio has consistently remained around 10% for several years and is among the lowest of all workers compensation funds nationwide. Most funds average 20 - 30 % in annual operating costs.

The financial and FTE restrictions of the appropriation forces NDWC to contract for services (such as medical bill review, utilization review, and information systems development) at a significantly higher cost than if it could hire FTEs to do the same work. Over the years, the savings (estimated at \$4.2 million for the 2001 - 2003 biennium) to the workers' compensation fund would be tremendous. When faced with similar circumstances again, and without approval of this bill, NDWC would be forced to choose the option that is most costly to the fund because of the appropriation and FTE limits.

Reengrossed House Bill No. 1281 would give NDWC's Board of Directors the authority to establish an annual budget encompassing all operating costs. Budgeting on an annual basis would provide the flexibility to react to changes in the workers' compensation industry in an expedient manner. It would also allow NDWC to maintain and enhance its technology systems, including developing a larger presence on the internet, to ensure all customers receive the exemplary services they deserve.

While the bill would remove NDWC from the appropriations process, it would not be detrimental to the other reporting mechanisms currently in place. The Board closely monitors the activities and financial results of NDWC through quarterly reports. NDWC financial statements are audited annually by an independent accounting firm and the results are presented to the Board of Directors and the Legislative Audit and Fiscal Review Committee. Historically, NDWC has always received an unqualified, or clean, opinion from this audit process. As mentioned earlier, a biennial performance evaluation is also conducted by an independent workers compensation industry expert. The performance evaluation report is presented to the Board of Directors, the Legislative Audit and Fiscal Review Committee, and the Legislative Assembly. NDWC also prepares a statutory biennial report. None of these reporting elements would be eliminated by this bill.

In addition to the above reporting requirements, Section 4 of Reengrossed House Bill No. 1281 requires NDWC to report the results of its operations, statement of financial position, statement of revenues and expenditures for the current biennium, and statement of expected revenues and expenditures for the next biennium to each house of the Legislative Assembly at the start of each legislative session. These reporting procedures would ensure that the Legislative Assembly would at all times be completely aware of the status of the Workers Compensation fund so it could address any deficiencies.

Reengrossed House Bill No. 1281 does not impact the current process to address complaints by injured workers, employers or medical providers. NDWC attempts to answer all questions and resolve all complaints internally. Typically, if this fails, the Governor, legislators, and the Board of Directors are contacted about any concern and they ask NDWC to address the issue at hand. Appeals to formal decisions are reviewed by the Office of Independent Review and proceed through the court system if necessary. This bill changes none of that.

Section 5 of the bill creates an expiration date of June 30, 2005 for this act. The 2005 Legislative Assembly will have an opportunity to review the results of NDWC operations under this continuing appropriation to determine if the change should be made permanent.

NDWC and its Board of Directors request your favorable consideration on Reengrossed House Bill No. 1281. If there are any questions, I would be more than happy to try to answer them at this time. Thank you.

**3-5-01 STATEMENT BY CHUCK PETERSON, REPRESENTING GNDA,
REGARDING HB 1281 WORKER'S COMPENSATION LEGISLATION.**

Chairman Mutch and members of the Senate Industry, Business, and Labor Committee. I am Chuck Peterson, a member of GNDA, and a North Dakota businessman. Thank you for the opportunity to provide testimony in support of HB 1281.

The Greater North Dakota Association is the voice of business and the principle advocate of positive change in North Dakota. As a member of GNDA we represent over 1000 business and professional organizations from all areas of North Dakota. GNDA is governed by a 25 member Board of Directors elected by our membership.

I also speak for the Associated General Contractors, the North Dakota Petroleum Council, the North Dakota Retail Petroleum Marketers Association, the North Dakota Motor Carriers Association, the Automobile Dealers and Implement Dealers Association, North Dakota Grocers Association, the Bismarck-Mandan Chamber of Commerce, and the North Dakota Hospitality Association.

We have reviewed HB 1281. We understand that if passed it will remove the Bureau from the appropriation process. We also understand that the Bureau will be required to report to the Appropriations Committee of both houses providing a report of the revenues and expenditures for the previous biennium. We support this legislation.

The Bureau has operated under the authority of a Board of Director for over three years. I believe that the board of directors has provided proper governance to the Bureau. We have operated in a prudent manner providing the authority to the staff to perform their duties in a manner that will serve the best interests of the employers and employee in that state of North Dakota.

We are aware of the progress that has been made all areas of the Bureaus responsibility. The response from employers and employees has been positive. The cost of operations has been one of the lowest in the nation. The Bureau has been operated in fiscally prudent manner. We urge you to allow the Board of Directors to take the next step in the development of the NDWCB, that being the authority to control how employer premium dollars are budgeted.

The laws of North Dakota allow only one source of worker compensation for employers and employees in our state. We want the best service that can be made available, and we believe that we are entitled to it. The ability to properly allocate resources where needed as they are needed is vital to the success of any enterprise. This essentially is what will be provided by HB 1281.

We request that you look positively on this legislation.

CONTACT WORKERS COMP FOR A COPY OF THIS DOCUMENT

NORTH DAKOTA
Workers Compensation

**Performance Evaluation
of the
North Dakota
Workers Compensation Bureau**

September 2000

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