

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1325**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1325

Industry, Business and Labor

Conference Committee

Hearing Date Jan. 20, 1999

Tape Number	Side A	Side B	Meter #
1		x	6.5
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

HB 1325 Relating to the worker's assistance program and to the independent audit of the worker's compensation Bureau.

Chairman Berg opened the hearing on the bill.

Representative Jim Poolman, testified in support to the bill. This bill removes the sunset clause so a permanent existence of advisory program can continue. The name would be change to the Office of Independent Review. Two full time staff will then be added as well. The confidentiality is protected with this bill and additional appropriation is added. Members of the Workers Compensation Bureau are here to explain components of the bill.

Ms. Peggy Haug, testified in support to the bill.

(see attached written testimony)

Questions and discussion followed her testimony. Chairman Berg asked when the program would get involved with an injured worker. Ms. Haug responded that immediately after the injury the program would respond. The program group is independent from the bureau so an unbiased decision can be provided.

Mr. Reedy Pofall, Counsel for Workers Compensation Bureau, testified in favor of the bill. He also spoke on the responsible audit of the bureau. The last audit was done in 1998. The audit was very successful with many good recommendations. The intent of the legislation was for an experienced workers compensation firm to perform the audit. Response to questions continued.

Representative Ekstrom asked about relationship between bureau and people represented.

Response was that only a working relationship with the groups is the case. A close working relationship with the bureau is necessary to understand the procedures and direction of the workers needs. Confidentiality is always followed.

Ms. Shelly Seaburg, testified in opposition to the bill. The name of the program implies that the program is outside the bureau, however, the program is inside the bureau. Ms. Seaburg has much experience with injured workers and anticipates that injured workers will not be represented in the best manner. The concept is good but the program gives a false impression on protecting the injured worker.

Chairman Berg closed the hearing on the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1325

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
3	x		7.9
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

HB 1325

Chairman Berg opened the meeting on the bill.

Ms. Julie form ND States Auditor's Office appeared to explain audit functions related to the bill.

Representative Keiser moved to adopt the amendment, Second by Representative Kline

By voice vote, all yes, 0 no, motion carried

Representative Keiser moved for do pass as amended and re-refer to Appropriations Committee

Second by Representative Koppang

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

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1325

Hearing Date 1-26-99

Representative Keiser will carry the bill

FISCAL NOTE

(Return original and 10 copies)

Resolution No.: \_\_\_\_\_ Amendment to: Eng. HB 1325 - Conf. Com.

Date of Request: 4-8-99

Requested by Legislative Council

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: 4-8-99

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

**BILL DESCRIPTION:** Workers' Adviser Program; Independent Performance Audit

**BILL NO:** EHB 1325

**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 bill removes the sunset clause from the law creating the Workers' Adviser Program; provides additional funding to expand the program; changes the name to "Office of Independent Review"; and protects the confidentiality of the program's files.

The bill clarifies that a firm with workers compensation expertise selected to conduct the biennial independent performance audit cannot be construed to mean a CPA firm; changes the name of the independent performance audit to independent performance evaluation; and provides a continuing appropriation for the audit to ensure competitive bidding without a legislatively established "cost floor".

**FISCAL IMPACT:** Not quantifiable. The bill will increase the funding to administer the Office of Independent Review by approximately \$300,000 per biennium. Total biennial costs for this program are projected to be \$440,000. The increase in expenses can be contained within the current rating structure. The bill will serve to improve and expedite the service provided by the Office of Independent Review reducing unnecessary legal and return to work costs associated with dispute resolution delays.

It is also anticipated that the cost of the audit may be reduced by providing a continuing appropriation for the independent biennial performance audit to ensure a more competitive bid process.

---

**AMENDMENT:** The proposed amendment directs the Office of Independent Review to provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued and clarifies the effective date for section 65-01-16.

The proposed amendment will result in no significant change to the fiscal impact of the engrossed bill.

**DATE:** 4-8-99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: \_\_\_\_\_ Amendment to: Eng. HB 1325

Requested by Legislative Council

Date of Request: 3-8-99

- 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: 3-8-99



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

***BILL DESCRIPTION:*** Workers' Adviser Program; Independent Performance Audit

***BILL NO:*** EHB 1325

***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 bill removes the sunset clause from the law creating the Workers' Adviser Program; provides additional funding to expand the program; changes the name to "Office of Independent Review"; and protects the confidentiality of the program's files.

The bill clarifies that a firm with workers compensation expertise selected to conduct the biennial independent performance audit cannot be construed to mean a CPA firm; changes the name of the independent performance audit to independent performance evaluation; and provides a continuing appropriation for the audit to ensure competitive bidding without a legislatively established "cost floor".

***FISCAL IMPACT:*** Not quantifiable. The bill will increase the funding to administer the Office of Independent Review by approximately \$300,000 per biennium. Total biennial costs for this program are projected to be \$440,000. The increase in expenses can be contained within the current rating structure. The bill will serve to improve and expedite the service provided by the Office of Independent Review reducing unnecessary legal and return to work costs associated with dispute resolution delays.

It is also anticipated that the cost of the audit may be reduced by providing a continuing appropriation for the independent biennial performance audit to ensure a more competitive bid process.

---

***AMENDMENT:*** The proposed amendment directs the Office of Independent Review to provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued.

The proposed amendment will result in no significant change to the fiscal impact of the engrossed bill.

***DATE:*** 3-2-99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: \_\_\_\_\_ Amendment to: HB 1325

Requested by Legislative Council \_\_\_\_\_ Date of Request: 1-29-99

- 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: 01-29-99

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

***BILL DESCRIPTION:***       **Workers' Adviser Program; Independent Performance Audit**

***BILL NO:*** HB 1325

***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 removes the sunset clause from the law creating the Workers' Adviser Program; provides additional funding to expand the program; changes the name to "Office of Independent Review"; and protects the confidentiality of the program's files.

The proposed legislation clarifies that a firm with workers compensation expertise selected to conduct the biennial independent performance audit cannot be construed to mean a CPA firm; and provides a continuing appropriation for the audit to ensure competitive bidding without a legislatively established "cost floor".

***FISCAL IMPACT:*** Not quantifiable. The proposed legislation will increase the funding to administer the Office of Independent Review by approximately \$300,000 per biennium. Total biennial costs for this program are projected to be \$440,000. The increase in expenses can be contained within the current rating structure. The proposed legislation will serve to improve and expedite the service provided by the Office of Independent Review reducing unnecessary legal and return to work costs associated with dispute resolution delays.

It is also anticipated that the cost of the audit may be reduced by providing a continuing appropriation for the independent biennial performance audit to ensure a more competitive bid process.

***AMENDMENT:*** The proposed amendment changes all references within Sections 65-02 and 65-03 to biennial independent performance "audit" to biennial independent performance "evaluation".

The amendment will result in no change to the fiscal impact for the bill as introduced.

***DATE:*** 1-29-99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1325 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:***        **Workers' Adviser Program; Independent Performance Audit**

***BILL NO:*** HB 1325

***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 removes the sunset clause from the law creating the Workers' Adviser Program; provides additional funding to expand the program; changes the name to "Office of Independent Review"; and protects the confidentiality of the program's files.

The proposed legislation clarifies that a firm with workers compensation expertise selected to conduct the biennial independent performance audit cannot be construed to mean a CPA firm; and provides a continuing appropriation for the audit to ensure competitive bidding without a legislatively established "cost floor".

***FISCAL IMPACT:*** Not quantifiable. The proposed legislation will increase the funding to administer the Office of Independent Review by approximately \$300,000 per biennium. Total biennial costs for this program are projected to be \$440,000. The increase in expenses can be contained within the current rating structure. The proposed legislation will serve to improve and expedite the service provided by the Office of Independent Review reducing unnecessary legal and return to work costs associated with dispute resolution delays.

It is also anticipated that the cost of the audit may be reduced by providing a continuing appropriation for the independent biennial performance audit to ensure a more competitive bid process.

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

## PROPOSED AMENDMENTS TO 1999 HOUSE BILL NO. 1325

Page 1, line 3, after the semicolon insert "to amend and reenact section 65-02-23 of the North Dakota Century Code as amended by section 3 of House Bill No. 1331 and the new section to chapter 65-03 of the North Dakota Century Code as created by section 2 of House Bill No. 1296, as approved by the fifty-sixth legislative assembly;"

Page 2, line 11, after the second boldfaced period, insert:

"If House Bill No. 1331 becomes effective, section 65-02-23 of the North Dakota Century Code as amended by section 3 of House Bill No. 1331, is amended and reenacted as follows:

### **65-02-23. Workers' compensation fraud unit – Continuing appropriation.**

The bureau shall establish a workers' compensation fraud unit. The bureau may employ investigators and licensed attorneys, or contract with a private investigator whenever feasible or cost effective, to investigate and review any alleged case of fraud against the fund by employers, injured workers, or providers of medical or other services, including activities described under section 65-04-14 or 65-05-33. The unit shall refer cases of fraud to the bureau for the imposition of administrative penalties and may refer them to the appropriate authorities for prosecution. Money in the workers' compensation fund is appropriated on a continuing basis for payment of costs associated with identifying, preventing, and investigating employer or provider fraud. The biennial independent performance ~~audit~~ evaluation of the bureau must evaluate and report on the effectiveness of these expenditures. The bureau may establish a process to charge investigative costs against the rate class of an employer being investigated and to credit any recoveries to that rate class.

### **SECTION 4. AMENDMENT. "**

Page 3, line 12, overstrike "**audit**" and insert immediately thereafter "evaluation"

Page 3, line 15, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 17, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 19, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 22, overstrike "the auditor", insert immediately thereafter "a representative from the firm", and overstrike "audit", and insert immediately thereafter "evaluation"

Page 3, line 25, remove "performance", overstrike "audit", and insert immediately thereafter "performance evaluation"

Page 3, line 26, remove "performance", overstrike "audit", and insert immediately thereafter "performance evaluation"

Page 3, line 28, remove "performance", overstrike "audit", and insert immediately thereafter "performance evaluation"

Page 3, line 30, replace "audit" with "evaluation"

Page 4, line 1, after "5." insert:

**"AMENDMENT.** If House Bill No. 1296 becomes effective, the new section to chapter 65-03 of the North Dakota Century Code as created by section 2 of House Bill No. 1296 is amended and reenacted as follows:

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

#### **SECTION 6."**

Renumber accordingly

Date: 1-26-97  
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1325**

House Industry, Business and Labor Committee

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

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

Action Taken do pass as amended

Motion Made By Keiser Seconded By Koppang

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

Total (Yes) 15 No 0

Absent 1

Floor Assignment Keiser

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



REPORT OF STANDING COMMITTEE

HB 1325: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1325 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to amend and reenact section 65-02-23 of the North Dakota Century Code as amended by section 3 of House Bill No. 1331 and the new section to chapter 65-03 of the North Dakota Century Code as created by section 2 of House Bill No. 1296, as approved by the fifty-sixth legislative assembly;"

Page 2, after line 10, insert:

**"SECTION 3. AMENDMENT.** If House Bill No. 1331 becomes effective, section 65-02-23 of the North Dakota Century Code, as amended by section 3 of House Bill No. 1331, is amended and reenacted as follows:

**65-02-23. Workers' compensation fraud unit - Continuing appropriation.**

The bureau shall establish a workers' compensation fraud unit. The bureau may employ investigators and licensed attorneys, or contract with a private investigator whenever feasible or cost effective, to investigate and review any alleged case of fraud against the fund by employers, injured workers, or providers of medical or other services, including activities described under section 65-04-14 or 65-05-33. The unit shall refer cases of fraud to the bureau for the imposition of administrative penalties and may refer them to the appropriate authorities for prosecution. Money in the workers' compensation fund is appropriated on a continuing basis for payment of costs associated with identifying, preventing, and investigating employer or provider fraud. The biennial independent performance ~~audit~~ evaluation of the bureau must evaluate and report on the effectiveness of these expenditures. The bureau may establish a process to charge investigative costs against the rate class of an employer being investigated and to credit any recoveries to that rate class."

Page 3, line 12, remove "performance" and overstrike "**audit**" and insert immediately thereafter "performance evaluation"

Page 3, line 15, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 17, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 19, overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 22, overstrike "the auditor" and insert immediately thereafter "a representative of the firm" and overstrike "audit" and insert immediately thereafter "evaluation"

Page 3, line 25, remove "performance" and overstrike "audit" and insert immediately thereafter "performance evaluation"

Page 3, line 26, remove "performance" and overstrike "audit" and insert immediately thereafter "performance evaluation"

Page 3, line 28, remove "performance" and overstrike "audit" and insert immediately thereafter "performance evaluation"

Page 3, line 30, replace "audit" with "evaluation"

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** If House Bill No. 1296 becomes effective, the new section to chapter 65-03 of the North Dakota Century Code, as created by section 2 of House Bill No. 1296, is amended and reenacted as follows:

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

Renumber accordingly

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1325**

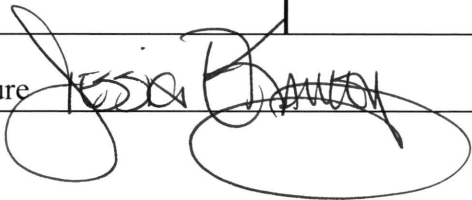
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HOUSE BILL 1325

Senate Industry, Business and Labor

Conference Committee

Hearing Date MARCH 3, 1999

Tape Number	Side A	Side B	Meter #
1		X	1640 to 2575
Committee Clerk Signature 			

Minutes:

SENATOR MUTCH: open the hearing on HOUSE BILL 1325

PEGGY HAUG: Introduce HOUSE BILL 1325, see testimony, independence audit and workers advisors audit. Letter of support from injured workers. Sunset clause and repealing of this clause and making permanent this office.

SENATOR MUTCH: any questions

DAVE THEILE: amendment to HOUSE BILL 1325, testimony or amendment included.

Constructive denial within 60 days and that the claim is not accepted or denied within 60 days.

Office of independent review and increased staffing. Mediator between bureau and legal advice

Rep. Glasshiem, working with workers compensation bureau and coming up with this

amendment on the house side. Amendment section 3 and section 6 changes the wording from

independent audit to independent evaluation. There are no real amendments to this bill.

SENATOR KREBSBACH: not doing the biennial performance audit.

DAVE THEILE: NO! we are just changing that, changing what audit means because audits where being done by CPA firms. They no nothing about performance audits. This will eliminate any confusion.

REGAN PUFALL: sections of the bill that have not been touched yet. Asking state for biennial performance audits of it's operations. Improvements from the first performance audit. Again, changing the way audit is reviewed. illuminating the need for a CPA firm to sublet to a consulting firm to do the performance review. Confidentiality statements by clients and attorneys and not allowing anyone else within the bureau to see the information. No, the material may not be released the office of independent review. Does not say that the material may be released by the bureau. This will protect information given by the claimant to the bureau. Legal and claims staff will also feel that they can talk open and freely with this staff. Testimony included with Peggy Haug Testimony

DAVID KEMNETZ: AFL-CIO, supports this concept and this bill, likes the name switch and methods behind the Office of Independent Review.

SENATOR MUTCH: any questions? opposed or for bill 1325

MOTION: conclude the hearing on HOUSE BILL 1325.

Senator Krebsbach motioned for a do pass committee recommendation. Senator Klein seconded her motion. The motion carried with a 7-0-0 vote.

Senator Thompson will carry the bill.

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1325

Page 3, line 10, after "title." insert "The office of independent review shall also provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

Renumber accordingly.

Date: 3/03  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
HOUSE BILL/RESOLUTION NO. 1380

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

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

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

Action Taken AMEND

Motion Made By HEITKAMP Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

Date: 3/03  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
HOUSE BILL/RESOLUTION NO. 1325

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

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

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

Action Taken DO PASS AS AMENDED

Motion Made By KREBSBACH Seconded By KLEIN

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_



REPORT OF STANDING COMMITTEE (410)  
March 5, 1999 10:36 a.m.

Module No: SR-40-4106  
Carrier: Sand  
Insert LC: 98288.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

HB 1325, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1325 was placed on the Fourteenth order on the calendar.

Page 3, line 10, after the period insert "The office of independent review also shall provide assistance of workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

Renumber accordingly

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1325**

**CONFERENCE COMMITTEE**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1325 cc1

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-26-99

Tape Number	Side A	Side B	Meter #
1	x		0 - 202
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Conference Committee of H B 1325.

Rep. Keiser handed out the amendments and explained that the Legislative Council when they drafted the amendment for the Senate put in the language "of" in line two after the word assistance. It was inappropriate language and they asked that it go to conference committee so that we could further amend to change the word to "to". It doesn't change the intent of the amendment it is just a clarification.

Rep. Klein made the motion to adopt the amendment.

Sen. Klein second the motion.

The roll call vote was 6 yea, 0 nay. The motion passed.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1325 cc2

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 4-6-99

Tape Number	Side A	Side B	Meter #
1	x		0 - 1208
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Conference Committee of HB 1325.

Rep. Keiser: The reason for bringing this back is when HB 1330 was vetoed, there was a key element that the Workers Comp. Bureau asked us to find a place to attach it.

Julie Leer: Handed out and explained the amendments. (See written testimony)

This deals with the provisions of Res Judicata and an affective date for section 65-01-16. This will provide uniformity in the law.

Sen. Thompson: Why are you repealing another section?

Julie Leer: That is the old effective date which restricted us from using the 65-01-16 from this date forward.

Sen. Thompson: The concern I have is can you go back and look at old claims?

Julie Leer: 65-01-16 contains more, it applies to several different things that can happen in claims. This could be a nightmare for us to go back and re-ajudicate claims under a new section of the law. This streamlines the law.

Rep. Keiser: Can you say this in English and simple so that we can understand it. I understand what you are asking is that with this change in 65-01-16 that we put in a new affective date which is August 1 1999. This new change, which makes sense, becomes effective for all new decisions, even if the case was opened in 1975. The new decision will be bases on the new date vs. making decisions based on when the law as it existed at the time the claim was filed.

Julie Leer: That is correct except it wouldn't be at the time the claim was filed. We wouldn't have to go back and look for the repealed language. All we want to do is use this streamlined clearer section of the law to administer the decisions. The difference between claims and decisions is that if you look at 65-01-06, a lot of what it embodies is the process the bureau makes the decision, notifies the injured worker. The injured worker has the opportunity to say if they agree or disagree, or whatever.

Rep. Keiser: Then would anything negative happen if the new section we're applying to an old case vs. the old section? Does the claimant lose anything by having to apply the new section on a decision vs. the old section?

Julie Leer: I don't think so.

Rep. Klein made a motion to adopt the amendments.

Sen. Klein second the motion.

Sen. Thompson disagreed with the amendments.

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1325cc2

Hearing Date 4-6-99

Rep. Keiser: As long as we understand the intent of this we have made sure that the claimant is not going to lose significantly. What ever the words say, the intent is more important. Their interpretation is what our intent is.

No further discussion.

The voice vote was 4 yea, 1 nay, 1 absent. The motion carries.

The roll call vote to further amend was 5 yea, 0 nay, 1 absent. The motion carries.

The hearing was adjourned.

VR  
3/26/99

**CONFERENCE COMMITTEE**      AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1325

That the Senate recede from its amendments as printed on page 790 of the House Journal and page 628 of the Senate Journal and that Engrossed House Bill No. 1325 be amended as follows:

Page 3, line 10, after the period insert "The office of independent review shall provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

Renumber accordingly

(Bill Number) HB 1325 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Mutch ✓  
Sen. Klein ✓  
Sen. Thompson ✓

For the House:

Rep. Keiser ✓  
Rep. Klein ✓  
Rep. Stolorowicz ✓

recommends that the (~~SENATE~~/HOUSE) (ACCEDE to) (~~RECEDE~~ from)  
723/724      725/726      S724/H726      S723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
1325 on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: 3/26/99

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.



**REPORT OF CONFERENCE COMMITTEE**

**HB 1325, as engrossed:** Your conference committee (Sens. Mutch, Klein, Thompson and Reps. Keiser, Klein, Stefonowicz) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 890 and place HB 1325 on the Seventh order.

That the Senate recede from its amendments as printed on page 790 of the House Journal and page 628 of the Senate Journal and that Engrossed House Bill No. 1325 be amended as follows:

Page 3, line 10, after the period insert "The office of independent review shall provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

Renumber accordingly

Engrossed HB 1325 was placed on the Seventh order of business on the calendar.

*Wuan Mutch*  
*George Keiser*

**PROPOSED AMENDMENTS TO 1999 ENGROSSED HOUSE BILL NO. 1325**

Page 1, line 1, after “to” insert “create and enact a new subsection to section 65-01-16 of the North Dakota Century Code, relating to disputed decisions of the workers compensation Bureau; to”

Page 1, line 8, after the first “Laws” insert “, section 7 of chapter 532 of the 1997 Session Laws”

Page 1, line 9, after the comma insert “disputed decisions of the workers compensation bureau,”

Page 1, after line 23, insert:

“**SECTION 2.** A new subsection to section 65-01-16 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

This section is effective for all orders and decisions on all claims regardless of the date of injury or the date the claim was filed.”

Page 5, line 6, after the period insert:

“**SECTION 10. REPEAL.** Section 7 of Chapter 532 of the 1997 Session Laws of North Dakota is repealed.”

Re-number accordingly

VR  
4/6/99

**CONFERENCE COMMITTEE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1325**

That the Senate recede from its amendments as printed on page 790 of the House Journal and page 628 of the Senate Journal and that Engrossed House Bill No. 1325 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 65-01-16 of the North Dakota Century Code, relating to disputed decisions of the workers compensation bureau; to"

Page 1, line 8, after the first "Laws" insert ", section 7 of chapter 532 of the 1997 Session Laws"

Page 1, line 9, after the comma insert "disputed decisions of the workers compensation bureau,"

Page 1, after line 23, insert:

**"SECTION 2.** A new subsection to section 65-01-16 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

This section is effective for all orders and decisions on all claims regardless of the date of injury or the date the claim was filed."

**CONFERENCE COMMITTEE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1325**

Page 3, line 10, after the period insert "The office of independent review shall provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

**CONFERENCE COMMITTEE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1325**

Page 5, after line 4, insert:

**"SECTION 10. REPEAL.** Section 7 of chapter 532 of the 1997 Session Laws of North Dakota is repealed."

Renumber accordingly

(Bill Number) HB 1325 (, as (re)engrossed):

Your Conference Committee

For the Senate:

<u>Sen. Mutch</u>	<u>✓</u>	<u>y</u>	<u>y</u>
<u>Sen. Klein</u>	<u>✓</u>	<u>y</u>	<u>y</u>
<u>Sen. Thompson</u>	<u>✓</u>	<u>n</u>	<u>y</u>

For the House:

<u>Rep. Keiser</u>	<u>✓</u>	<u>y</u>	<u>y</u>
<u>Rep. Klein</u>	<u>✓</u>	<u>y</u>	<u>y</u>
<u>Rep. Stepanowicz</u>			

recommends that the (SENATE/HOUSE) (ACCEDE to) (~~RECEDE from~~)  
723/724      725/726      S724/B726      S723/B725  
the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ - \_\_\_\_\_

and place ~~1325~~ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
HB 1325 on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: 4/6/99

CARRIER: Keiser

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1325, as engrossed:** Your conference committee (Sens. Mutch, Klein, Thompson and Reps. Keiser, Klein, Stefonowicz) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 790, adopt amendments as follows, and place HB 1325 on the Seventh order:

That the Senate recede from its amendments as printed on page 790 of the House Journal and page 628 of the Senate Journal and that Engrossed House Bill No. 1325 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new subsection to section 65-01-16 of the North Dakota Century Code, relating to disputed decisions of the workers compensation bureau; to"

Page 1, line 8, after the first "Laws" insert ", section 7 of chapter 532 of the 1997 Session Laws"

Page 1, line 9, after the comma insert "disputed decisions of the workers compensation bureau,"

Page 1, after line 23, insert:

**"SECTION 2.** A new subsection to section 65-01-16 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

This section is effective for all orders and decisions on all claims regardless of the date of injury or the date the claim was filed."

Page 3, line 10, after the period insert "The office of independent review shall provide assistance to workers, upon request, in cases of constructive denial or after a vocational consultant's report has been issued."

Page 5, after line 4, insert:

**"SECTION 10. REPEAL.** Section 7 of chapter 532 of the 1997 Session Laws of North Dakota is repealed."

Renumber accordingly

Engrossed HB 1325 was placed on the Seventh order of business on the calendar.

**1999 TESTIMONY**

**HB 1325**

**WORKER ADVISOR PROGRAM and INDEPENDENT PERFORMANCE AUDIT**

**Testimony  
Before the House Industry, Business, and Labor Committee**

January 20, 1999

Peggy Haug, Director, Worker Advisor Program  
Workers Compensation Bureau

Mr. Chairman, Members of the Committee:

My name is Peggy Haug, and I am the Director of the Bureau's Worker Advisor Program. I am here to testify in support of HB 1325. This bill would update North Dakota Century Code Sections 65-01-16, 65-02-27, and 65-02-30 dealing with the Worker Advisor Program, and the Bureau's biennial independent audit.

**Name Change to Office of Independent Review**

Sections 1 and 2 of this bill propose changing the name of the Worker Advisor Program to the Office of Independent Review. We are supporting this change because the proposed title, "Office of Independent Review" more accurately reflects the nature and purpose of the program. The Current title has erroneously led some injured workers to conclude that the program offers legal advice.

The staff of the Workers' Adviser Program do not act as attorneys nor do they provide legal advice. They focus on resolving disputes in a timely fashion without the need for costly and lengthy litigation. The program functions independently of the Bureau's claims department and serves as a

"check-and-balance" on the decisions made by that department, as well as an information resource for injured workers.

### Additional Full-time Employees

Currently the program's two staff members are full-time temporary positions, and this bill would provide FTEs for those 2 positions. This will help prevent staff turnover that could make the program less effective. A knowledgeable, well trained, and experienced staff is essential in order to provide effective assistance to injured workers.

This bill would also add two new FTEs for two additional advisers and one new FTE for an administrative assistant. These staff increases will help the program fulfill its mission of assisting injured workers in a timely manner. For cases in 1998, the average time between receiving a request for assistance and beginning a review was 9 days. Although that was a significant improvement in timeliness from the previous year, it is not an acceptable level of performance. The injured worker should not have to wait 9 days for assistance. The longer an injured worker has to wait for a response, the more likely it is that an adversarial relationship will develop and the more likely it is that litigation will follow. Additional staff will allow the program to meet the goal of more timely assistance.

In a survey conducted in 1997, injured workers indicated they would like more personal service from the program. On average, each staff member receives 32 new cases per month. The addition of 2 new advisers would bring the new caseload down to 20 per month for each adviser. A smaller caseload would allow more time for personal contact between the staff and injured workers. If the staff can spend more time talking with injured workers, the worker will have a better understanding of the claims process and a greater degree of comfort with the resolution.

An administrative assistant would take over the program's clerical tasks, which now must be completed by program staff. Additionally, an administrative assistant would be asked to implement quarterly telephonic feedback surveys to gather constructive criticism and ideas from injured workers. This information would be invaluable as the program strives to improve its service to injured workers.

The increase in staff would also allow expansion of the program into other areas of need. Currently, the program only provides assistance after the Bureau has issued an administrative order.



Ideally, an increase in program staffing would provide program employees the opportunity to assist injured workers at any point in the claims process, to proactively solve claims disputes and further reduce litigation.

### **Reduced Litigation**

This program has contributed to the Bureau's success in decreasing claims litigation by working with injured workers to resolve disputes before formal litigation is needed. Injured workers have a variety of questions when they receive notice that a claim has been denied in part or full. Unless those questions are answered, disputes will arise, the relationship of trust between the Bureau and the injured worker will suffer, and litigation will often ensue.

In 1996, the first year the program existed, 51% of the injured workers assisted requested a formal hearing. In 1997, that figure dropped to 44.27%. As of November 30, 1998, only 42.87% of the injured workers assisted by the program requested a formal hearing.

Litigation costs vary widely between cases, so it would be impossible to precisely calculate the costs that would have been incurred if a large proportion of claimants decided to take the Bureau to court. Nevertheless, cost savings are apparent when you consider that the Bureau spends an average of \$1,314.17 on legal fees in the least expensive cases, cases where a claimant requests a hearing but later withdraws the request. Indeed, even if the Bureau wins a hearing that goes on, we can expect to spend an average of \$3,608.91 per case. It is not hard to imagine how that money could have been better utilized by the system.

I would now like to introduce Reagan Pufall, Chief Operating Officer of the Bureau. He will be discussing the proposed changes to the Biennial Performance Audit provision.

### **The Biennial Performance Audit**

In 1997, the Workers Compensation Bureau drafted legislation which was enacted into law, requiring that an independent performance audit of the Bureau's operations be performed every two years. This appears to be the first time a state agency has requested that its performance be regularly audited by an industry expert.

The Bureau and its Board of Directors welcome this performance audit as a valuable tool for continued improvement. The Bureau's goal when creating the performance audit process was to regularly receive expert insight and information from a fresh, external industry perspective, so that the program of rapid continual improvement that began in early 1996 could successfully continue into the future.

The Bureau's first audit under this legislation was conducted in 1998. The audit identified areas for improving customer service, cutting costs through increased efficiency, and improving practices to meet industry standards. The auditors presented the Bureau with eighty-nine recommendations, nearly 49 of which have been implemented already; most of the remaining recommendations are scheduled for implementation in the near future.

The only hitch in the audit process arose from an interpretation of the statute itself. The statute was interpreted to require that the performance audit be conducted by a certified public accounting firm, while the intent of the legislation was that it be performed by an expert such as a workers compensation industry consulting company or another state fund that is recognized as an industry leader in quality and innovation. Accordingly, this legislation has been introduced to clarify the requirement that a workers compensation industry expert conduct the biennial performance audit of the Bureau.

We are very fortunate that the Bismarck accounting firm Eide Bailly, LLP, came up with a creative solution to the situation. As a CPA firm they were awarded the bid and performed portions of the audit. They subcontracted with a workers compensation consulting company, Applied Risk Management, Inc., to perform the balance of the audit. While the audit was successfully performed, this bill will remove the necessity for such ad hoc solutions, which can add additional unnecessary costs, in future audits.

The proposed legislation specifies that the independent performance audit be conducted by a firm with extensive expertise in workers' compensation industry standards and best practices, and need not be an accounting firm. This clarification ensures that the original intent behind the independent review provision will be implemented. The state auditor's office will be able to solicit bids from a broader range of industry experts, without being confined to CPA firms,

most of which do not have extensive, in-depth expertise in operating a workers compensation system.

The bill would also repeal N.D.C.C. section 65-02-29. That provision unnecessarily duplicates section 65-02-30. This occurred in 1997, when the Bureau introduced a bill mandating a biennial independent audit while a separate bill had been introduced by others, which established the Board of Directors for the Bureau as well as the independent audit process.

Finally, the bill proposes a continuing appropriation to fund the performance audit. A continuing appropriation would provide two advantages; First, it would build in the flexibility necessary for unanticipated audit expenditures over which the Bureau has no control; and second, it would avoid establishing an artificial "cost floor" when seeking competitive bids for the completion of the audit.

If there are any questions, I will be happy to answer them at this time.

13 January 1999

Representative Rick Berg, Chairman  
House Industry, Business & Labor Committee  
Legislative Session  
% The North Dakota State Capitol  
600 East Boulevard  
Bismarck, North Dakota 58505

re: HB 1325

Dear Sir:

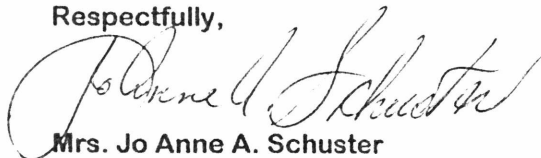
This letter is being sent to you in support of the continuation of the Workers' Adviser Program. I will not burden your already busy schedule with a plethora of reasons "why" the program should continue; however, I will give you one...for the benefit of all injured workers in the state of North Dakota. That should be enough reason.

The Workers' Compensation Bureau is omnipotent in that it is sovereign in it's decision making process relative to injured workers benefits and percentage of disability. The Bureau sends the injured worker to the examining physician - of it's choice - and the worker must rely on that physician's ruling. I do not have any idea who the individual was that created the Workers' Adviser Program, but I and countless other injured workers, bless that person on a daily basis. The Workers' Adviser Program is our Court of Last Resort, when the Bureau reaches a decision with which we disagree. In my own case, there were a number of factors involved related to the disability. I was sent to a doctor who stated in his letter to both the Bureau and myself, that he was unfamiliar with my problem, but *believed it warranted a 3% whole body impairment*. Without the Workers' Adviser Program, I would have been between the proverbial rock and a hard place, but I requested their assistance on the advice of my own doctor. Following the program's intercession, the Bureau sent me to a qualified medical professional who knew what he was looking for, and *it resulted in a 42% whole body impairment*. Quite a difference, wouldn't you agree? The Workers' Adviser Program has been able to help the majority of cases referred to them by the Bureau and/or their own private attorneys.

Would you deny the injured workers of North Dakota their only hope for equitable compensation for their injuries? I don't believe you would. I am asking you to support the Workers' Adviser Program and to allow them to continue the work they do on behalf of North Dakota's injured work force.

Weather (and my present medical condition) permitting, I would like to attend the Legislative Committee meeting and will call regarding the date selected.

Respectfully,



Mrs. Jo Anne A. Schuster  
4079 - 71st Avenue N. E.  
Oberon, ND 58357-9684  
(701) 766-4097

cc: Peggy H/AUG

JANUARY 13, 1999

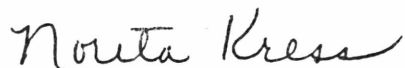
REPRESENTATIVE RICK BERG, CHAIRMAN  
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
LEGISLATIVE SESSION  
% THE NORTH DAKOTA STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505

I STRONGLY SUPPORT THE WORKERS' ADVISER PROGRAM AND  
RECOMMEND IT TO BE CONTINUED.

MY WORKERS COMPENSATION CLAIM WAS DENIED TWICE BUT  
WITH THE HELP OF THE WORKERS ADVISER REPRESENTATIVE,  
I FINALLY WON MY CASE. ALTHOUGH I KNEW I HAD A  
LEGITIMATE CASE, IT WAS HARD NOT TO GET DISCOURAGED  
WHEN I WROTE LETTER AFTER LETTER. WITH THE ADVICE  
AND SUPPORT OF THE WORKERS ADVISOR PROGRAM, I WAS  
ABLE TO KEEP ON TRYING.

THEY ARE HELPFUL AND CARING IN EXPLAINING YOUR  
OPTIONS AS WELL AS SHOWING AN INTEREST IN YOUR  
INDIVIDUAL CASE. PLEASE HELP THEM TO CONTINUE THEIR  
WORK.

SINCERELY,



NORITA KRESS  
2108 N WASHINGTON ST #5  
BISMARCK, NORTH DAKOTA 58501

Jan 13, 1999

Representative Rick Berg  
Sir:

I have recently become aware of a bill being introduced that will eliminate the Workers Adviser Program. I feel strongly the passing of such a bill will hurt a lot of North Dakotans, that need help dealing with Workmans Compensation.

About a year ago, I filed a claim with the Workmans Compensation, and they denied my claim. They did not agree with the decision of the attending doctors, or feel I had any rights for help from them, when they reviewed the claims submitted to them.

The Workers Adviser Program worked with me, enabling me to prove my claim was job related, and that I was entitled to the benefits they offer. Without their help I do not know how I would have managed, until I was able to return to work.

Most injured workers cannot afford being without their income while they are recuperating, much less afford the cost of the medial bills. They also do not have the resources to defend themselves, or feel they can afford to hire an attorney to represent them. That is why keeping the Workers Adviser Program is so important for the workers.

They do help us get things straightened out, and they provide a valuable service to the injured worker when they need help the most.

Sincerely,  
Betty Abercrombie  
1002 1<sup>st</sup> Street  
Devils Lake, N. D. 58301

January 15, 1999

Representative Rick Berg, Chairman  
House Industry, Business and Labor Committee  
Legislative Session

Dear Sir:

**PLEASE MAKE THE WORKERS' ADVISER PROGRAM PERMANENT!**

My hip was broke while I was at work and after much frustration and hopelessness because of the handling of my file in the Workers Compensation Bureau, in desperation I turned to the Workers Adviser Program for help - knowing I needed to use the Adviser Program before getting my lawyer involved. Also after my benefits were cut I could ill afford the cost of a lawyer either but I needed to get this corrected.

Cade Jorgenson from the Workers Advisory Program advised me to write to the legal department and as a result have gotten my benefits reinstated. Cade has advised and helped me on other problems I have had with the Workers Compensation Bureau and everything is being corrected. Now I see no need to get my lawyer involved because the Legal Adviser Program was able to help solve my problems. I can't praise Cade Jorgenson and the Workers' Adviser Program highly enough. You can't imagine how the Adviser Program has helped improve my every day life.

I would hate not having the Workers' Adviser Program to turn to in the future if I need help again.

**PLEASE DON'T SHUT DOWN THE WORKERS ADVISER PROGRAM!**

Sincerely,

*Ardice Pierson*

Ardice Pierson  
4147 60th Ave NE  
Minnewaukan, ND 58351-9415

claim # 95 504 781 T 37

4-22-1999 3:38AM FROM NAPOLEON OFFICE 1 781 734 2032 P. 2

January 19, 1999

Representative Rick Berg, Chairman  
House Industry, Business and Labor Committee  
Legislative Session  
%The North Dakota State Capitol  
600 East Boulevard  
Bismarck, ND 58505

RE: Workers' Adviser Program

Dear Rep. Berg,

This past year (1998), I sustained an injury while on the job and my claim was denied as Workers Comp. Bureau indicated that it was a pre-existing problem, which of course, it was not.

I then called Workers' Adviser Program by telephone and talked with them and told them I would send a letter to them protesting my injury denial with all my injury records that I have.

After they received my letter and records they then called me back and requested more information from previous doctors who they contacted and obtained additional information on my claim. They then submitted all this information that I had given them and what they had requested and gotten from my previous doctors to the Workers Comp. Bureau. After reviewing what Workers' Adviser had submitted to them the Bureau then agreed to issue a new order to accept my claim.

"Thank goodness for Workers' Adviser Program!" I would've had to hire an attorney to represent me at a great expense, which I couldn't afford, but would've been forced to as I wouldn't have known how to present my claim without professional help that I received from this fine program.

It was a pleasure working with the Workers' Adviser Program people and found them to be of great help to me and I'm sure a lot of other working people in time of need.

"We need this great Program to continue to help people in desperate need".

Thank you.

Sincerely,



Duane Rodlund  
PO Box 53  
Napoleon, ND 58561

cc: Peggy Haug  
Program Manager  
Workers' Adviser Program



# WAP DISPOSITIONS

For the period of January 1, 1998 to December 31, 1998

<b>Disposition</b>	<b>Number</b>	<b>Percent</b>
Total Requests for Assistance	906	
Untimely Request – No Assistance	12	1.32%
Total Requests Receiving Assistance	894	
Unchanged Orders	728	81.43%
Changed Orders	166	18.57%

# WAP DISPOSITIONS

For the period of January 1, 1997 to December 31, 1997

<b>Disposition</b>	<b>Number</b>	<b>Percent</b>
Total Requests for Assistance	960	
Untimely Request - No Assistance	16	1.67%
Total Requests Receiving Assistance	944	
Unchanged Orders	819	86.76%
Changed Orders	125	13.24%

# WAP DISPOSITIONS

For the period of November 1, 1995 to December 31, 1996

<b>Disposition</b>	<b>Number</b>	<b>Percent</b>
Total Requests for Assistance	1,165	
Untimely Request - No Assistance	15	1.29%
Total Requests Receiving Assistance	1,150	
Unchanged Orders	1,060	92.17%
Changed Orders	90	7.83%

# WAP DISPOSITIONS

For the period of November 1, 1995 to December 31, 1998

<b>Disposition</b>	<b>Number</b>	<b>Percent</b>
Total Requests for Assistance	3,031	
Untimely Request - No Assistance	43	1.42%
Total Requests Receiving Assistance	2,988	
Unchanged Orders	2,607	87.25%
Changed Orders	381	12.75%

# WAP REQUESTS

For the period of November 1, 1995 to December 31, 1998

## Current

Months of Operation	38
Total Requests for WAP	3,074
Average Request for Assistance per Month	80.89
Number of WAP Adviser	2.5
Average Requests Per Month, Per Adviser	32.35

## Proposed

Number of Advisers	4
Average Requests Per Month, Per Adviser	20.22

# WAP HEARING REQUESTS

YEAR	Closed Cases	Hearing Requests	Percent
1995/1996	1,165	594	50.98%
1997	960	425	44.27%
1998 (as of 11-30)	828	355	42.87%

**WORKER ADVISOR PROGRAM and INDEPENDENT PERFORMANCE AUDIT**

**Testimony  
Before the Senate Industry, Business, and Labor Committee**

March 3, 1999

Peggy Haug, Director, Worker Advisor Program  
Workers Compensation Bureau

Mr. Chairman, Members of the Committee:

My name is Peggy Haug, and I am the Director of the Bureau's Worker Advisor Program. I am here to testify in support of Engrossed HB 1325. This bill would update North Dakota Century Code Sections 65-01-16, 65-02-27, and 65-02-30 dealing with the Worker Advisor Program, and the Bureau's biennial independent audit.

**Name Change to Office of Independent Review**

**Sections 1 and 2** of this bill propose changing the name of the Worker Advisor Program to the Office of Independent Review. We are supporting this change because the proposed title, "Office of Independent Review" more accurately reflects the nature and purpose of the program. The current title has erroneously led some injured workers to conclude that the program offers legal advice.

The staff of the Workers' Adviser Program does not act as attorneys nor do they provide legal advice. They focus on resolving disputes in a timely fashion without the need for costly and lengthy litigation. The program functions independently of the Bureau's claims department and serves as a "check-and-balance" on the decisions made by that department, as well as an information resource for injured workers.

## **Additional Full-time Employees**

Currently the program's two staff members are full-time temporary positions, and this bill would provide FTEs for those 2 positions. This will help prevent staff turnover that could make the program less effective. A knowledgeable, well trained, and experienced staff is essential in order to provide effective assistance to injured workers.

This bill would also add two new FTEs for two additional advisers and one new FTE for an administrative assistant. These staff increases will help the program fulfill its mission of assisting injured workers in a timely manner. For cases in 1998, the average time between receiving a request for assistance and beginning a review was 9 days. Although that was a significant improvement in timeliness from the previous year, it is not an acceptable level of performance. The injured worker should not have to wait 9 days for assistance. The longer an injured worker has to wait for a response, the more likely it is that an adversarial relationship will develop and the more likely it is that litigation will follow. Additional staff will allow the program to meet the goal of more timely assistance.

In a survey conducted in 1997, injured workers indicated they would like more personal service from the program. On average, each staff member receives 32 new cases per month. The addition of 2 new advisers would bring the caseload down to 20 new cases per month for each adviser. A smaller caseload would allow more time for personal contact between the staff and injured workers. If the staff can spend more time talking with injured workers, the worker will have a better understanding of the claims process and a greater degree of comfort with the resolution.

An administrative assistant would take over the program's clerical tasks, which now must be completed by program staff. Additionally, an administrative assistant would implement quarterly telephonic feedback surveys to gather constructive criticism and ideas from injured workers. This information would be invaluable as the program strives to continually improve its service to injured workers.

The increase in staff may also allow expansion of the program into other areas of need. Currently, the program provides assistance only after the Bureau has issued an administrative order. Ideally, an increase in program staffing would provide program employees the opportunity to assist injured workers at any point in the claims process, to proactively solve claims disputes and further reduce litigation.

We are also proposing an amendment that would require assistance to workers in cases of constructive denial and after a vocational consultants report has been issued. A concern was raised in a proposed house bill that injured workers should have an additional resource in these instances and it was agreed that the Office of Independent Review would be the best mechanism for such assistance.



## **Reduced Litigation**

This program has contributed to the Bureau's success in decreasing claims litigation by working with injured workers to resolve disputes before formal litigation is needed. Injured workers have a variety of questions when they receive notice that a claim has been denied in part or full. Unless those questions are answered, disputes will arise, the relationship of trust between the Bureau and the injured worker will suffer, and litigation will often ensue.

In 1996, the first year the program existed, 51% of the injured workers requested a formal hearing after receiving assistance from the program. In 1997, that figure dropped to 44.27%. As of November 30, 1998, 46.66% of the injured workers assisted by the program subsequently requested a formal hearing.

Litigation costs vary widely between cases, so cost savings cannot be calculated precisely. Nevertheless, substantial cost savings are apparent. The Bureau spends an average of \$1,314.17 on legal fees in the least expensive cases, cases where a claimant requests a hearing but later withdraws the request. Indeed, even if the Bureau wins a hearing that goes on, we can expect to spend an average of \$3,608.91 per case. It is not hard to imagine how that money could have been better utilized by the system

I would now like to introduce Reagan Pufall, Chief Operating Officer of the Bureau. He will be discussing the proposed changes to the Biennial Performance Audit provision.

## **The Biennial Performance Audit**

In 1997, the Workers Compensation Bureau drafted legislation which was enacted into law, requiring that an independent performance audit of the Bureau's operations be performed every two years. This appears to be the first time a state agency has requested that its performance be regularly audited by an industry expert.

The Bureau and its Board of Directors welcome this performance audit as a valuable tool for continued improvement. The Bureau's goal when creating the performance audit process was to regularly receive expert insight and information from a fresh, external industry perspective, so that the program of rapid continual improvement that began four years ago can successfully continue into the future.

The Bureau's first audit under this legislation was conducted in 1998. The audit identified areas for improving customer service, cutting costs through increased efficiency, and improving practices to meet industry standards. The auditors presented the Bureau with eighty-nine recommendations, nearly 49 of which have been implemented already. Most of the remaining recommendations are scheduled for implementation in the near future.

The only hitch in the audit process arose from an interpretation of the statute itself. The statute was interpreted to require that the performance audit be conducted by a certified

public accounting firm, while the intent of the legislation was that it be performed by an expert such as a workers compensation industry consulting company or another state fund that is recognized as an industry leader in quality and innovation. Accordingly, this legislation has been introduced to clarify the requirement that a workers compensation industry expert conduct the biennial performance audit of the Bureau.

We are very fortunate that the Bismarck accounting firm Eide Bailly, LLP, came up with a creative solution to the situation. As a CPA firm they were awarded the bid and performed portions of the audit. They subcontracted with a workers compensation consulting company, Applied Risk Management, Inc., to perform the balance of the audit. While the audit was successfully performed, this bill will remove the necessity for such ad hoc solutions, which can add additional unnecessary costs, in future audits.

The proposed legislation specifies that the independent performance audit be conducted by a firm with extensive expertise in workers' compensation industry standards and best practices, and need not be an accounting firm. This clarification ensures that the original intent behind the independent review provision will be implemented. The state auditor's office will be able to solicit bids from a broader range of industry experts, without being confined to CPA firms, most of which do not have extensive, in-depth expertise in operating a workers compensation system.

The bill would also repeal N.D.C.C. section 65-02-29. That provision unnecessarily duplicates section 65-02-30. This occurred in 1997, when the Bureau introduced a bill mandating a biennial independent audit while a separate bill had been introduced by others, which established the Board of Directors for the Bureau as well as the independent audit process.

Finally, the bill proposes a continuing appropriation to fund the performance audit. A continuing appropriation would provide two advantages; first, it would build in the flexibility necessary for unanticipated audit expenditures over which the Bureau has no control; and second, it would avoid establishing an artificial "cost floor" when seeking competitive bids for the completion of the audit.

If there are any questions, I will be happy to answer them at this time.

Starr D. Roberts  
2601 Pacific Drive,  
Apartment 18  
Fargo, ND 58103

January 27, 1999

To: Senator Duane Mutch, Chairman  
Senate Industry, Business and Labor Committee  
Legislative Session  
% The North Dakota State Capitol  
600 East Boulevard  
Bismark, ND 58505

Cc: Representative Rick Berg; Peggy Ann Haug

Re: Worker's Adviser Program

Dear Mr. Mutch:

I would like to take this opportunity to express praise and gratitude toward the Worker's Adviser Program. After being injured on the job, I received assistance from the program when experiencing difficulty in dealing with Worker's Compensation. The program has proven to be extremely beneficial for my case and should definitely be commended.

My injury was the result of an accident that occurred at my place of employment in November 1997. The diagnoses of my injury were torn chest muscles and a herniated disk in my neck, which was later corrected through surgery in the spring of 1998. Aside from the obvious physical suffering, I was forced to endure a great deal of personal anguish caused by the rejection of my claim to Worker's Comp. I was falsely accused of submitting a fraudulent claim and was able to turn to the Worker's Adviser Program for aid in my plight. My case worker was Ms. Peggy Ann Haug and she was wonderful. She worked very closely with my doctors and attorney as well as myself in the investigation of my injury. With the help of Ms. Haug and the program, I was granted a settlement from the court in compensation of my claim. Along with the diligent approach of her work, Ms. Haug provided an exorbitant amount of support and genuine concern for me in my time of need. She conveyed a strong interest in the progression of my recovery which has been very comforting. I sincerely appreciate the care and understanding expressed by Ms. Haug. She is a valuable asset to the program.

As you can see, I support the Worker's Adviser Program wholeheartedly. It is something that needs to continue for the benefit of others. If you are in need of additional information, please contact me at the address listed above.

Very truly yours,



Starr Roberts

**1999 ENGROSSED HOUSE BILL NO. 1325**  
Testimony before the Conference Committee  
April 6, 1999

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 request an amendment to 1999 Engrossed House Bill No. 1325. The language of the proposed amendment is being lifted from 1999 House Bill No. 1330 which was vetoed by the Governor. We have discussed this proposed amendment with Clare Carlson and Bob Harms from the Governor's office and they indicated they did not have any objection to adding this language to this bill.

This language deals with the effective date of North Dakota Century Code section 65-01-16. In 1997, the Legislative Assembly enacted section 65-01-16 and repealed section 65-01-14. Section 65-01-16 deals with the decision-making process for workers' compensation claims. Section 65-01-14 was its predecessor.

In 1997, the language the Bureau requested contained an effective date for all claims filed after the effective date of the statute – August 1, 1997. Since August 1, 1997, there appears to be a question of whether there is a statute in effect for claims filed before August 1, 1997. The Bureau believes section 65-01-14 still controls for those claims. We have requested this amendment to the effective date, however, to remove any doubt about which statute controls the Bureau's decision-making process from August 1, 1999 forward and to provide uniformity in that process.

This amendment will not cause the Bureau to "go back" on any claims and change what it has already done. Any decisions made before August 1, 1999, will be pursuant to either section 65-01-16 or section 65-01-14 depending on the date the claim was filed. From August 1, 1999 forward, however, the Bureau will use section 65-01-16 as was intended when the language was proposed in 1997.

I'll be happy to answer any questions at this time. Thank you.