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Deanna Hall
Operator's Signature

10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1236

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10/2/03
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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1236

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/21/03

Tape Number	Side A	Side B	Meter #
3		x	39.5-end
4	x		0.00-10.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Kelsner opened the hearing on HB 1236.

Rep. Nancy Johnson introduced the bill on behalf of the ND State Board of Registration for Professional Engineers and Land Surveyors and spoke in behalf of this legislation.

Gary Arman, Chairman for the ND State Board of Registration for Professional Engineers and Land Surveyors, appeared in support of HB 1236. (See attached) This board maintains a legal reserve fund and is financially self sufficient.

Responding to Rep. Nottestad's question regarding Section 2 and why a specific dollar amount is not included, Arman said there was no way to anticipate what circumstances or hearings might be forthcoming. The board does not intend to use this for any punitive action. 90% of disciplinary actions are resolved by resolution rather than hearings.

Rep. Froseth questioned whether they have a formal procedure to follow when a complaint is filed for violation of ethics, to which Arman replied that yes, they have a very specific procedure, it provides as much protection as it possibly can. The complaint must be notarized

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10/2/03
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Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1236
Hearing Date 1/21/03

and filed with the secretary of the board. A hearing must take place within 90 days. Legal investigations (the secretary of the board and one board member) committee acts upon the complaint. At the hearing evidence is presented to the remainder of the board who have not had prior access to the findings of the legal investigation and those three board members make a decision on the complaint.

Rep. Thorpe inquired when the original fee was put in place to which Arman replied that it was as least as far back as 1957.

Chairman Kelser questioned the fiscal note data and asked how many members are currently registered in ND with this board.. Arman said there would be no fiscal impact on the general fund. He stated that currently there are 2800-2900 registered engineers and land surveyors. 800 are residents of ND. At present they don't expect to increase registration fees.

Dennis Meyer, Past President of the National Council of Examiners for Engineers and Land Surveyors, testified favorably in support of HB 1236. (See attached)

Other favorable written testimony was submitted by the following persons on behalf of their professional organizations:

- Kevin Nelson, P.E./L.S.I.
- Larry Smith, RLS
- Jerold Backes, PE, President of ACEC/ND
- The Associated General Contractors of North Dakota
- Chapters 3 (Bismarck-Mandan) & 4 (Fargo-Moorehead) of ND Society of Professional Engineers

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1236

Hearing Date 1/21/03

As no one appeared in opposition to HB 1236, the hearing was closed. Rep. Klein moved a do pass, Rep. Kasper seconded the motion. The roll call vote was unanimous, 14-0-0.

Rep. Klein will carry this bill on the floor.

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1/21/03
Date

FISCAL NOTE
Requested by Legislative Council
01/13/2003

Bill/Resolution No.: HB 1236

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$12,945	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

Any present or future fiscal impact due to HB 1236 will affect only the North Dakota State Board of Registration for Professional Engineers and Land Surveyors. The Board of Registration operates on revenues collected from registered professional engineers and registered land surveyors and does not receive any general fund monies. The term future is being used because the bill does not call for any immediate action by the Board of Registration and the monetary measure of any future action taken by the Board of Registration cannot be determined at this time. The figures used in 1A represent the amount of increased revenues if the Board increases registration fees by \$5.00 per registrant per biennium. The Board is only asking that the registration fee caps be increased and does not anticipate increasing registration fees during this biennial period.

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.*

If the State Board of Registration raised registration fees, the increased revenues would be equal to the amount of the increase times the number of current active license holders. In a hypothetical example, if the State Board of Registration raised registration fees by \$5.00 per biennium for each of its 2,589 active license holders the revenue increase would be \$12,945.00. The fiscal impact of recovering legal costs associated with a disciplinary action where an adverse finding has been made is impossible to determine at this time as it is directly related to Board costs. In the past, disciplinary actions have incurred costs of \$400.00 to \$8,000.00.

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.*

No expenditures are anticipated with HB 1235 nor will any FTE position be 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*

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budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The State Board of Registration does not receive any general fund monies nor is its budget contained in the executive budget.

Name:	Candle Robinson	Agency:	North Dakota State Board of Registration for Professional Engineers and Land Surveyors
Phone Number:	701-258-0786	Date Prepared:	01/16/2003

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Deanna Baller
Operator's Signature

1/2/03
Date

Date: 1/21/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1736

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein

Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep. Severson, Vice-Chair	✓		Rep. Ekstrom	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Kasper	✓				
Rep. Klein	✓				
Rep. Nottelstad	✓				
Rep. Ruby	✓				
Rep. Tieman	✓				

Total (Yes) 14

No 0

Absent 0

Floor Assignment Klein

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

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Operator's Signature

1/21/03
Date

REPORT OF STANDING COMMITTEE (410)
January 22, 2003 7:29 a.m.

Module No: HR-12-0878
Carrier: M. Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1236: Industry, Business and Labor Committee (Rep. Kelsor, Chairman)
recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1236 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-12-0878

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10/2/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1236

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Dorena Hallmark
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1236

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-12-03

Tape Number	Side A	Side B	Meter #
1	xxx		0-1445
Committee Clerk Signature <i>Lisa VanBerkon</i>			

Minutes: Chairman Mutch opened the hearing on HB 1236. All Senators were present.

HB 1236 relates to professional engineer and land surveyor registration fees and recovery of legal costs in disciplinary matters.

Testimony in support of HB 1236

Representative Nancy Johnson introduced the bill. This bill would proposed a raised cap on annual fees. The second would allow them to recover legal fees if the registrant was found guilty.

There were no questions from the committee.

Lawrence Woodbury, State Board of Registration for Professional Engineers and Land Surveyors, spoke in support of the bill. See attached.

Senator Mutch: Do you often take people to court?

Lawrence: We try not to. In all of my years, maybe five times.

Senator Nething: Why did you chose \$100 and \$200 for an amount that fees could not exceed?

Lawrence: The constituents wanted a figure, so that is what we came up with.

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Dorinda Ball
Operator's Signature

12/2/03
Date

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1236

Hearing Date 03-12-03

Senator Klein: If the person being charged wins the case, do you then pay his fees?

Lawrence: This bill more directly deals with our fees, not the party who is charged.

Dennis Meyer also spoke in support of the bill. He spoke for the record on his own behalf.

There was no opposition.

Hearing was closed. No action was taken.

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Dennis Meyer
Operator's Signature

12/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1236

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-24-03

Tape Number	Side A	Side B	Meter #
1	XXXX		4140-4850
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the discussion on HB 1236. All Senators were present.

HB 1236 relates to professional engineer and land surveyor registration fees and recovery of legal costs in disciplinary matters.

Senator Klein: The bill in this case gives the board the authority to recoup their attorney's fees should the defendant be found guilty. The whole issue is whether or not the board should be able to collect, and the registrant cannot, should they be found innocent.

Senator Nething: I thought that we would amend this that if the registrant prevails, he/she can recovery attorney fees.

Senator Mutch: Legislative Council brought down a list of industries that are currently allowed to collect legal fees.

Senator Krebsbach: Let's remove section 2. Section 1 is giving them the authority to increase their fees.

Senator Nething moved to amend by removing section 2. **Senator Klein** seconded.

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10/2/03
Date

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number 1236
Hearing Date 03-24-03

Dan, the intern begins preparing the amendment.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Krebsbach moved a DO PASS AS AMENDED. Senator Klein seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Mutch

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Deanna G. Hall
Operator's Signature

10/2/03
Date

30446.0102
Title.0200

Adopted by the Industry, Business and Labor
Committee

March 24, 2003

JB
3-24-03

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1236

Page 1, line 1, replace "sections" with "section" and remove "and 43-19.1-25"

Page 1, line 2, replace the second "and" with a period

Page 1, remove line 3

Page 1, remove lines 14 through 24

Page 2, remove lines 1 through 7

Renumber accordingly

Page No. 1

30446.0102

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Dennna Ballantyne
Operator's Signature

10/2/03
Date

Date: 3-24-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1236 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Adopt Amend- remove underlined sect. of sect. 2

Motion Made By

Nothing

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espgaard	X				

Total (Yes) 7 No 0

Absent

0

Floor Assignment

None

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

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Operator's Signature

Dan H. Bell

Date

10/2/03

Date: 3-24-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1236 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass As Amend

Motion Made By

Krebsbach

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nothing	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espgaard	X				

Total (Yes) ~~XXXXXXXXXXXX~~ 7 No ~~XXXXXXXXXXXX~~ 0

Absent 0

Floor Assignment ~~XXXXXXXXXXXX~~ Mutch

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

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 25, 2003 2:11 p.m.

Module No: SR-53-5698
Carrier: Mutch
Insert LC: 30446.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1236: 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). HB 1236 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 43-19.1-25"

Page 1, line 2, replace the second "and" with a period

Page 1, remove line 3

Page 1, remove lines 14 through 24

Page 2, remove lines 1 through 7

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-53-5698

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2003 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1236

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Dorena Hallcraft
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1236

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date April 7, 2003

Tape Number	Side A	Side B	Meter #
1	x		3.5-25.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Conference Committee Chair Klein called the meeting to order.

All appointed members of the committee were present: Senators Mutch, Kresbach and Every and Representatives Klein, Froseth and Zaiser.

Chairman Klein read the amendment and explained that the inherent logic was to bring the Board of Professional Engineers up to consistent standards with other state boards. Complaints cannot be hearsay and testimony must be submitted to the board in writing. Klein stated that there haven't been many formal complaints filed.

Senator Mutch asked that if a person is reprimanded and he challenges the complaint, who is responsible for legal fees for his case and his Board? Mutch thinks that is unfair.

Rep. Froseth: There is a formal procedure to follow when a complaint is filed for violation of ethics. Like the Podiatry Board, if they don't have something like this, they are responsible for the costs, it could basically ruin the board.

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Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1236

Hearing Date April 7, 2003

Senator Kresbach: Should it be on a reciprocal basis? If the actions are brought against a licensed professional, and the actions are proven invalid, then does the board cover the costs?

Representative Klein: My understanding is that in that case, the board does.

Senator Mutch: Lawyers are going to like this. There aren't going to be enough courthouses to handle all these cases with all these loser pays.

Representative Zaiser: But if he's not guilty, he's clear.

Representative Klein: Most of these complaints don't go so far as to get to court proceedings. A person has a chance to respond to the board during an administrative hearing and if there is not enough evidence, the board will dismiss the charges.

Senator Mutch: I thought of having a loser pay put in here. Instead they just deleted the whole section.

Representative Froseth: Does he have the right to counter sue?

Senator Kresbach: He still has to operate with a license, so good luck.

Senator Mutch: We were pretty good to the engineers, we give them more schooling, went along with all that, they're looking for a tradeoff, that's it. Guess we're getting back into the medieval guild system.

Representative Klein: From a professional board standpoint, they haven't had that many problems. I visited with their state director. They just want to protect themselves, considering what happened to the Podiatry Board. I think it's a good idea to bring them up to the same standards and practices as the other state boards.

Representative Froseth: I think the state overseeing health and welfare issues and guidelines is a positive thing.

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10/2/03
Date

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1236

Hearing Date April 7, 2003

Senator Kresbach: How many cases have they brought forth in the last several years?

Representative Klein: I think three cases within the last eight years. But they are wary of getting into a bind. Gary Armand said that recovery costs only occur when there is significant finding adverse to the registrant through a formal hearing process. Full or formal hearings are used only when an equitable resolution between all parties cannot be reached. etc.

Senator Kresbach: I think there should be some recovery, but where does the person who is being called into question, where is his fair treatment? Other than to sue?

Representative Zaiser: I think there should be some standard boilerplate for all these boards.

Senator Kresbach: A reversal, if a person is found innocent and the charges are dropped, then the board should be liable for the legal costs. But if the person is found culpable, then the person should be liable.

Representative Froseth: In Armand's testimony he stated that the Board had spent approximately \$ 8000-\$10,000 a few years ago on a disciplinary hearing where there was an adverse finding. The board covered that, or more accurately the registered members did. It isn't fair to subject the entire membership for expenses that are the results of a few unethical registrants who run afoul of the standards for that profession.

Senator Kresbach: There could be some overly aggressive members on some boards, though.

Representative Klein: A formal hearing process only comes about when there is substantial allegations.

Senator Kresbach: This is pretty much standard language with a lot of the boards. If we are going to make changes, we have to be certain that it will be proper to assess on a reversal.

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Date

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1236

Hearing Date April 7, 2003

Representative Klein: We can always change things later. Let's see what happens under the existing system. Let's try it the way we sent the bill over to the Senate.

Senator Kresbach: We removed the new added language, we amended the change out, we didn't repeal anything. The cost incurred by the board, if there is a severe disciplinary action, that costs them a lot of money is born by the registrants. Is that fair? How often are licenses renewed?

Representative Klein: Every two years.

Senator Kresbach: So the only retort the board has now is to let them run rampant and then suspend the license when it comes time for renewal.

Representative Klein: They can revoke the license. But what usually happens is that a firm has a couple licensed guys and the guy with the revoked license can still do the work but he just doesn't sign any of it. Like attorneys do when somebody is disbarred. You don't get to the offender this way.

Senator Kresbach: The company still keeps an unregistered engineer on staff? Can we look up reciprocals? Can we track where registrants that pay fees, if a colleague is found guilty. Now what if that registered colleague is found innocent? Is there a reciprocal where the board is responsible for picking up the fees? Wouldn't that be fair? That's a compromise.

Representative Klein: I'll look that up. I'll check with Legislative Council and get some information. We can't finish this up today. We'll reschedule another conference committee.

Representative Klein adjourned the conference committee meeting.

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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1236

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date April 9, 2003

Tape Number	Side A	Side B	Meter #
1	x		0.0-13.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Conference Committee Chairman Klein called the meeting to order. All appointed members of the committee were present.

Representative Klein explained the additional information he and the intern researched at Legislative Council. Page 3 lists the boards with the clause we are talking about. This is standard terminology that is used now. (See attached) Chiropractors can assess court fees and a civil penalty too! Attorneys can assess fees and costs and then some. I looked at the information the board had given to us. One of eight to ten complaints ends up in a formal disciplinary hearing. At that point the investigative committee (two members plus the executive director) looks at it. If there is found to be just cause, a hearing is scheduled with an administrative law judge for due process purposes. There have been three complaints in the last five years. Two of those were deemed guilty. The penalties imposed were a letter of reprimand and a 30-60 day suspension. 30% of complaints are dismissed after preliminary investigation. The average cost of a disciplinary action that advances through the judge runs about \$7-10 thousand dollars. The

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Doreen Holbrook
Operator's Signature

10/2/03
Date

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1236

Hearing Date April 9, 2003

\$500-1200 cases are handled by the investigative committee. The board has had three complaints, one has been dismissed, the other two are still under investigation. In essence, this is the standard language for all boards. Any board coming up for review is putting this stuff in.

Representative Froseth: If someone knows they are going to be reprimanded, there is an incentive to be ethical.

Senator Mutch: How much power are we going to give these Boards? If the board has an administrative hearing, then both sides could decide how much of a case they have, the person responsible is going to have to pay.

Representative Klein: If only one out of ten goes this direction, it has to be pretty severe.

Senator Mutch: There'd be less reason for a board to be concerned about expense when they can charge, it's hopeless. This is competition among the engineer, internal politics.

Senator Kresbach: The only difference between these three pending cases that have gone to formal disciplinary hearings is that two were guilty and the third is innocent, the person not found guilty would not have these assessed but he would have to have paid for his legal defense for those charges brought against him.

Senator Mutch: We'd be letting him off the hook.

Representative Klein: This is the third session they've come in. Neighboring states do this so our engineers have to go there for continuing education to keep their registration.

Representative Froseth moved that the Senate recede from their amendments.

Representative Zaiser seconded the motion.

The roll call votes were 3-3.

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Deanna Hall
Operator's Signature

10/2/03
Date

Page 3
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1236
Hearing Date April 9, 2003

Representative Froese moved to further amend HB 1236. After the word case on line 22, let's have Legislative Council put in something to the effect "unless disciplinary action is found unproven, the board will assume legal costs, i.e. loser pay".

Senator Kresbach moved the Senate recede from their amendments and further amend HB 1236.

Senator Every seconded the motion.

Results of the voice vote were unanimous

Representative Klein closed the committee meeting.

30446.0103
Title.0300

Prepared by the Legislative Council staff for
Representative M. Klein
April 9, 2003

Conference Committee Amendments to HB 1236 - 04/09/2003

That the Senate recede from its amendments as printed on pages 1105 and 1106 of the House Journal and page 912 of the Senate Journal and that House Bill No. 1236 be amended as follows:

Page 1, line 22, after the underscored period insert "Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) HB 1236 (, as (re)engrossed):

Your Conference Committee

4/7 4/9
2:00 10:30

For the Senate:

(Sen) Mutch	P	P	N
Kresbach	P	P	N
Evary	P	P	N

For the House:

(Rep) Klein	P	P	Y
Frosch	P	P	Y
Zaiser	P	P	Y

☒ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
the (Senate/House) amendments on (S/J/HJ) page(s) 105 - 110

☐ and place _____ on the Seventh order.

☒ , adopt (further) amendments as follows, and place

HB 1236 on the Seventh order:

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

((Re)Engrossed) 1236 was placed on the Seventh order of business on the
calendar.

DATE: 4/7/03

CARRIER: Klein

LC NO. 30446 0103 of amendment 0300

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

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

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Operator's Signature

Date

4/2/03

REPORT OF CONFERENCE COMMITTEE (420)
April 10, 2003 2:45 p.m.

Module No: HR-65-7365

Insert LC: 30446.0103

REPORT OF CONFERENCE COMMITTEE

HB 1236, as engrossed: Your conference committee (Sens. Mutch, Krebsbach, Every and Reps. M. Klein, Froseth, Zaiser) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1105-1106, adopt amendments as follows, and place HB 1236 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1105 and 1106 of the House Journal and page 912 of the Senate Journal and that House Bill No. 1236 be amended as follows:

Page 1, line 22, after the underscored period insert "Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees."

Renumber accordingly

Engrossed HB 1236 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1236

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Deanna Hall
Operator's Signature

10/2/03
Date

January 17, 2003

Industry, Business and Labor Committee
North Dakota House of Representatives
Bismarck, North Dakota

RE: H.B. 1236

Chairman Kelser
Members of the Committee, Ladies and gentlemen:

My name is Gary Arman. I am the chairman of the Board of Registration for Professional Engineers and Land Surveyors and I am here today to speak in support of House Bill 1236.

House Bill 1236 has two parts. The first is related to registration and renewal fees. At this time, these fees are at their statutory maximums. We are asking that the existing maximums be increased in order to give the Board the necessary latitude to adjust registration and renewal fees as needed to cover necessary Board expenses. As you can see from the written testimony, the last time the Board requested an increase in fee caps was 1957. Hopefully we will not have to ask for another adjustment for another 46 years. Even though the Board of Registration is not anticipating raising the registration fees this year, we are asking that the statutory caps be increased at this time so the Board can be proactive in its fiscal responsibilities. The current Board operating reserve is anticipated to fall below \$20,000 this fiscal year. Current accounting principles recommend that a responsible reserve would be 6 months of operating expenses. In the Board's case, that would be approximately \$100,000.

The second part of House Bill 1236 relates to recovery of legal costs associated with disciplinary matters that may come before the Board. The recovery of costs would only occur where there is a significant finding adverse to the registrant through a formal hearing process. Full or formal hearings are used only when an equitable resolution between all parties cannot be reached. Currently, the Board assumes all costs for any disciplinary matter. Even though an adverse finding may be made against a registrant, every registrant against whom an adverse finding is made has a right to appeal that finding to a court of appropriate jurisdiction.

A few years ago the Board expended approximately \$8,000 to \$10,000 on a disciplinary hearing where there was an adverse finding. These costs were borne by the Board, or more accurately, by the registrants. Of greater concern was a disciplinary hearing that occurred approximately 20 years ago that cost the Board in excess of \$75,000. Can you imagine what those costs would be today? Basically we are asking for this authority in order to protect the Board and its registrants from unusual legal expenses. The Board maintains a dedicated legal reserve fund of \$100,000. At today's legal rates, that certainly won't last very long. One only has to look at the recent events associated with the Podiatry Board to see what potential negative impacts extensive litigation could have on the financial stability of any Board.

We are financially self sufficient and we would like to remain that way. . . .

Again, there are more details contained in our written testimony. Additionally, included with our written testimony are letters of support from the Associated General Contractors, the North Dakota Society for Professional Engineers, and the North Dakota Council of Consulting Engineers.

Thank you for your consideration in this matter. If there are any questions, I will try and answer them.


Gary L. Arman
Chairman
ND State Board of Registration for
Professional Engineers and Land Surveyors

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Operator's Signature

10/2/03
Date

January 21, 2003

Rep. George J. Keiser Chairman,
Members of the Committee, Ladies and gentlemen.

I would like to thank each of you for your dedication and diligent work in support of efficient, locally controlled State Government.

Briefly I would share with you that I served 15 years on the State Board (1981-1996). President Elect, President and Past president of the National Council of Examiners for Engineers and Land Surveyors (1987-1989).


I'm proud to compare the dedication of the North Dakota Board members with some of the activities of other states and jurisdictions. These jurisdictions extend from Alaska to Puerto Rico and from Maine to Guam.

The North Dakota Board has long used the entire first day of approximately nine face to face meetings each year to discuss issues of health, safety and public welfare issues affecting Engineering and Surveying. Their meetings are rotated around the state to provide convenient access for registrants throughout the state. They are generally two day meetings beginning early the first day extending into the night, Convening the second day at 8:00 AM and adjourning near mid afternoon to allow members to return to their homes. Telephone conference calls are used for selected items of business.

Review of all applications by individual board members generally takes 12 to 16 hours prior to each meeting. Financial compensation for these activities would be two days at \$25/day plus per diem of \$20 for those members who are away from their residence. This item is not expected to change. By Comparison as a member of the National Board that I served on a member from New York received \$100 per day on National business. I received none as I believe is appropriate. In conclusion we always like to contain costs and I believe the Board has done that effectively.

In reality we find that costs do escalate. May I urge you to look favorably on this legislation and recommend its passage.

Best Regards


Dennis F Meyer PE
Past President, NCEES

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Operator's Signature

1/21/03
Date

3831 Kingston Drive
Bismarck, ND 58503-8286

January 17, 2003

RE: H.B. 1236

Industry, Business and Labor Committee
North Dakota House of Representatives
Bismarck, North Dakota

Dear Chairman Keiser and Committee Members:

Before you, for your consideration, is a bill that will help the North Dakota Board of Registration for Professional Engineers and Land Surveyors (the Board) remain financially responsible to the professionals that the Board regulates and to the public it serves. My name is Kevin Nelson. I am a Professional Engineer and Land Surveyor Intern. I am in favor of this bill and I urge you to support it.

This bill addresses two financial issues for the Board. First, it increases registration fee caps that were established 46 years ago. Second, it provides the Board the authority to recover costs incurred during disciplinary proceedings when a registrant is found guilty of an action worthy of disciplinary action.

With its proven track record of being fiscally responsible, the Board is seeking an increase in the fee caps so it can continue to provide exceptional service to the public and to the registrants it serves. After operating within fee caps established in 1957, the Board only recently reached those maximums. Raising the fee caps does not necessarily mean the Board will increase registration fees. It gives the Board the opportunity to keep revenue consistent with the necessary and prudent costs of conducting the business of the Board. Registration fees are the Board's predominant source of revenue. As business costs continue to rise, the Board needs to recover those increases in expenses. The most logical way to cover the increases is through small, incremental increases in registration fees. Since the current fees are at the current fee cap level, the fee caps need to be raised.

The Board has the duty and the authority to oversee Professional Engineers and Professional Land Surveyors licensed in North Dakota. This charge includes disciplining these professionals, when necessary. Through the disciplinary process, the Board can incur, and has incurred, costs to investigate and prosecute the misconduct of some licensed professionals. Presently, the Board has no direct way to recover these costs. Therefore, a part of each honest and honorable registrant's licensing fee must be used to pay the costs of investigating and prosecuting the wrongdoing of an occasional few registrants that get led astray. Costs to investigate and prosecute these infrequent events of misconduct can be exorbitantly high, possibly completely draining all of the Board's financial resources. Without a means to recover these costs, the Board could face financial hardship. Allowing the Board to recover reasonable and actual costs for investigating and prosecuting misconduct will help the Board address the North Dakota Legislature's concerns about the financial responsibility of boards and commissions, especially as they pertain to legal costs.

Thank you for considering my testimony on House Bill 1236. I strongly encourage you to give this bill a "Do Pass" recommendation.

Sincerely,

Er. Kevin G. Nelson, P.E./L.S.I.

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Donna G. Hallmark
Operator's Signature

10/2/03
Date

January 17, 2003

Industry, Business and Labor Committee
North Dakota House of Representatives
Bismarck, North Dakota

RE: H.B. 1236

Chairman Keiser
Members of the Committee, Ladies and gentlemen:

The IBL Committee is considering a bill that will aid the North Dakota State Board of Registrations of Professional Engineers and Land Surveyors to stay financially sound. My name is Larry J. Smith. I am a registered Land Surveyor, a principal at the surveying and engineering firm of Swenson, Hagen & Co. in Bismarck ND. I am in support of this bill and urge you to support it.

These are two financial items HB1236 addresses.

First the item of the registration fee cap and the second the authority to recover costs during a disciplinary hearing when the registrant is found guilty of a disciplinary action. The board is and has been fiscally sound. The bill will allow the board to raise the fees for registration and still provide the excellent service to the engineers and surveyors of North Dakota. The fee caps were established forty plus years ago. As we all know the cost of doing business has increased substantially over the past four decades. The board is currently at its maximum fees. Revising the fee cap will allow the board to continue providing the quality service to the surveyors and engineers in North Dakota.

The cost recovery is an important issue. The board has the responsibility to investigate complaints against surveyors and engineers. If the complaint progresses to the hearing process substantial costs can be incurred by the board. If the registrant is found guilty and a disciplinary action is taken, the board should be able to recover the costs associated with the hearing. I believe we have and will have future boards that will be fair and just in their investigative and hearing process. The bill allows the board to be fiscally sound. By granting authority to recover legal costs, a large, complex investigation and hearing will not deplete all board funds.

I wish to thank the committee for considering my testimony on HB1236. I strongly encourage you to support the bill and give a "Due Pass" recommendation.

Larry J. Smith, RLS

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Donna G. Hall
Operator's Signature

10/2/03
Date

ACEC

American Council of Engineering Companies

Jerold R. Backes, PE
President
Location: P.O. Box 1077
Bismarck, ND 58502-1077

North Dakota

e-mail: jerry.backes@bartwest.com
phone: (701) 258-1110
cell---: (701) 226-1382
fax---: (701) 258-1111

Web Site: www.acecnd.org

RESOLUTION

WHEREAS:

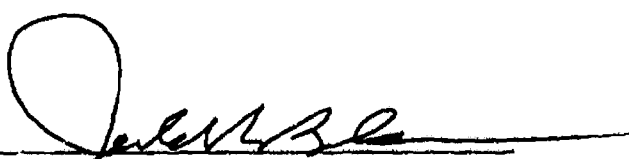
- 1.) ...the North Dakota Board Of Registration For Engineers and Land Surveyors ("Board") conducted a seminar and discussion of continuing education and other registration issues at the annual meeting of the American Council of Engineering Companies of North Dakota (ACEC/ND) at their Annual Meeting on September 17, 2002 held in Bismarck, North Dakota.
- 2.) ...the Board presented four specific items that were planned for introduction to the next North Dakota legislative session in January 2003. These items were:
 - a.) Registration and qualifications to satisfy requirements to be examined as recommended by the Board.
 - b.) Retirement clause to our Registration Laws as recommended by the Board.
 - c.) Continuing Education for on-going registration per changes recommended by the Board.
 - d.) Restructuring of Fees presently in place, as recommended by the Board.

AS A RESULT OF AND FOLLOWING IN-DEPTH DISCUSSION WITHIN AN OPEN FORUM BY ALL MEMBERS ATTENDING THIS ANNUAL MEETING:

BE IT THEREFORE RESOLVED THAT:

ACEC/ND via motion, second and approval, accepts and supports and endorses the above mentioned items.

Dated: September 19, 2002


Jerold R. Backes, PE
President
ACEC/ND

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Operator's Signature

10/2/03
Date



North Dakota Society of Professional Engineers

A State Society of the
National Society of Professional Engineers

Er. Kevin G. Nelson, P.E./L.S.I.
Secretary/Treasurer

NDSPE Resolution No. 02-04

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

f. Representation for the professional engineer in legislative matters affecting the profession ..."

and,

Whereas:

The North Dakota Society of Professional Engineers Board of Directors acknowledges herewith the necessity of licensing fees to produce needed revenue for the regular and necessary costs of the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in the course of conducting its ordinary business, and,

Whereas:

The North Dakota Society of Professional Engineers Board of Directors is aware of the complications and inconveniences of having licensing fee caps in the North Dakota Century Code, and,

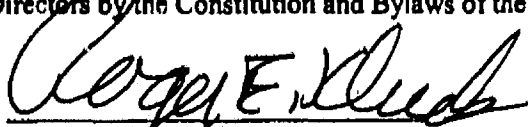
Whereas:

The North Dakota Society of Professional Engineers Board of Directors believes that these complications and inconveniences can be minimize or eliminated by not including licensing fee caps in the North Dakota Century Code.

Now, therefore, let it be resolved that:

The North Dakota Society of Professional Engineers Board of Directors offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation removing the fee caps from the North Dakota Century Code.

This resolution is signed by the Society President, who is acting on behalf of, with the permission of and at the direction of the Board of Directors for the North Dakota Society of Professional Engineers, which is acting in the interests of the Society membership, within the powers vested in the Board of Directors by the Constitution and Bylaws of the North Dakota Society of Professional Engineers.


NDSPE President

11-17-02
Date

3831 Kingston Drive
Bismarck, ND 58501
(701) 258-2818
email: Secretary@NDSPE.org
web: www.NDSPE.org

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Operator's Signature

10/2/03
Date



North Dakota Society of Professional Engineers

A State Society of the
National Society of Professional Engineers

Er. Kevin G. Nelson, P.E./L.S.L.
Secretary/Treasurer

NDSPE Resolution No. 02-05

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

f. Representation for the professional engineer in legislative matters affecting the profession ..."

and,

Whereas:

The North Dakota Society of Professional Engineers Board of Directors is aware of the powers vested in the North Dakota State Board of Registration for Professional Engineers and Land Surveyors regarding investigation of alleged violations of sections of North Dakota Century Code and sections of the Administrative Code pertaining to the practices of engineering and land surveying in the State of North Dakota, and,

Whereas:

The North Dakota Society of Professional Engineers Board of Directors is aware of the potentially large expense incurred in such investigations, and,

Whereas:

The North Dakota Society of Professional Engineers Board of Directors believes that these expenses should not necessarily be borne by the North Dakota State Board of Registration for Professional Engineers and Land Surveyors when the violator is not exonerated from the alleged violations, and,

Whereas:

The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is proposing to introduce legislation that would allow the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs associated with investigating such cases where the violator is not exonerated.

Now, therefore, let it be resolved that:

The North Dakota Society of Professional Engineers Board of Directors offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation authorizing the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs involved with investigating violations or alleged violations, provided such authority is not contrary to and does not conflict with other laws of the State of North Dakota, the United States of America federal government, or other political subdivisions having jurisdiction over these matters.

3831 Kingston Drive
Bismarck, ND 58501
(701) 258-2818
email: Secretary@NDSPE.org
web: www.NDSPE.org

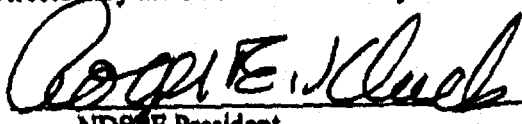
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Operator's Signature

Date

NDSPE Resolution 02-05

This resolution is signed by the Society President, who is acting on behalf of, with the permission of and at the direction of the Board of Directors for the North Dakota Society of Professional Engineers, which is acting in the interests of the Society membership, within the powers vested in the Board of Directors by the Constitution and Bylaws of the North Dakota Society of Professional Engineers.


NDSPE President

11-17-02
Date

Page 2 of 2

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Operator's Signature

10/2/03
Date



Chapter 3 Bismarck - Mandan

North Dakota Society of Professional Engineers

P.O. Box 2528 Bismarck, ND 58502-2528

NDSPE Chapter 3 Resolution No. 02-04

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

- f. Representation for the professional engineer in legislative matters affecting the profession ..."

and,

Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, acknowledges herewith the necessity of licensing fees to produce needed revenue for the regular and necessary costs of the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in the course of conducting its ordinary business, and,

Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, is aware of the complications and inconveniences of having licensing fee caps in the North Dakota Century Code, and,

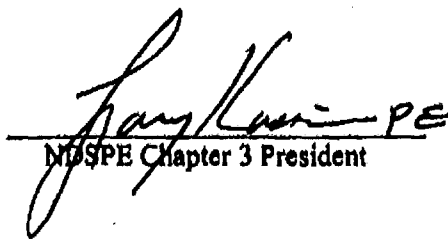
Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, believes that these complications and inconveniences can be minimize or eliminated by not including licensing fee caps in the North Dakota Century Code.

Now, therefore, let it be resolved that:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation removing the fee caps from the North Dakota Century Code.

This resolution is signed by the Chapter President, who is acting on behalf of, with the permission of and at the direction of the Board of Directors for Chapter 3 of the North Dakota Society of Professional Engineers, which is acting in the interests of the Chapter membership, within the powers vested in the Board of Directors by the Constitution and Bylaws of the North Dakota Society of Professional Engineers.


NDSPE Chapter 3 President

11-20-02
Date

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Operator's Signature

10/2/03
Date



Chapter 3 Bismarck - Mandan

North Dakota Society of Professional Engineers

P.O. Box 2528 Bismarck, ND 58502-2528

NDSPE Chapter 3 Resolution No. 02-05

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

f. Representation for the professional engineer in legislative matters affecting the profession

...

and,

Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, is aware of the powers vested in the North Dakota State Board of Registration for Professional Engineers and Land Surveyors regarding investigation of alleged violations of sections of North Dakota Century Code and sections of the Administrative Code pertaining to the practices of engineering and land surveying in the State of North Dakota, and,

Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, is aware of the potentially large expense incurred in such investigations, and,

Whereas:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, believes that these expenses should not necessarily be borne by the North Dakota State Board of Registration for Professional Engineers and Land Surveyors when the violator is not exonerated from the alleged violations, and,

Whereas:

The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is proposing to introduce legislation that would allow the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs associated with investigating such cases where the violator is not exonerated.

Now, therefore, let it be resolved that:

Chapter 3 of the North Dakota Society of Professional Engineers, Board of Directors, offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation authorizing the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs involved with investigating violations or alleged violations, provided such authority is not contrary to and does not conflict with other laws of the State of North Dakota, the United States of America federal government, or other political subdivisions having jurisdiction over these matters.

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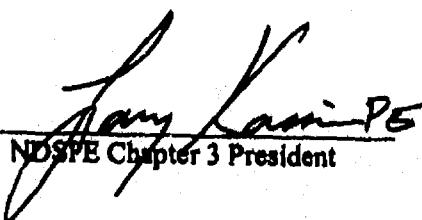
Operator's signature

Date

10/2/03

NDSPE Chapter 3 Resolution No. 02-05

This resolution is signed by the Chapter President, who is acting on behalf of, with the permission of and at the direction of the Board of Directors for Chapter 3 of the North Dakota Society of Professional Engineers, which is acting in the interests of the Chapter membership, within the powers vested in the Board of Directors by the Constitution and Bylaws of the North Dakota Society of Professional Engineers.


NDSPE Chapter 3 President

11-20-02
Date

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Operator's Signature

10/2/03
Date



Chapter 4 F-M Engineers

North Dakota Society of Professional Engineers

NDSPE Chapter 4 FM Engineers Resolution No. 02-04

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

- f. Representation for the professional engineer in legislative matters affecting the profession ..."
- and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers acknowledges herewith the necessity of licensing fees to produce needed revenue for the regular and necessary costs of the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in the course of conducting its ordinary business, and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers is aware of the complications and inconveniences of having licensing fee caps in the North Dakota Century Code, and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers believes that these complications and inconveniences can be minimize or eliminated by not including licensing fee caps in the North Dakota Century Code.

Now, therefore, let it be resolved that:

Chapter 4 of the North Dakota Society of Professional Engineers offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation removing the fee caps from the North Dakota Century Code.

This resolution is signed by the Chapter President, who is acting on behalf of, with the permission of and at the direction of the members of Chapter 4 of the North Dakota Society of Professional Engineers.


Chapter 4 FM Engineers President

12/13/02
Date

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Operator's Signature

12/21/03
Date



Chapter 4 F-M Engineers

North Dakota Society of Professional Engineers

NDSPE Chapter 4 FM Engineers Resolution No. 02-05

Whereas:

The object of the North Dakota Society of Professional Engineers "... shall be the advancement of the profession of engineering in the State of North Dakota ... This shall be deemed to include the following:

- f. Representation for the professional engineer in legislative matters affecting the profession ..."
and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers is aware of the powers vested in the North Dakota State Board of Registration for Professional Engineers and Land Surveyors regarding investigation of alleged violations of sections of North Dakota Century Code and sections of the Administrative Code pertaining to the practices of engineering and land surveying in the State of North Dakota, and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers is aware of the potentially large expense incurred in such investigations, and,

Whereas:

Chapter 4 of the North Dakota Society of Professional Engineers believes that these expenses should not necessarily be borne by the North Dakota State Board of Registration for Professional Engineers and Land Surveyors when the violator is not exonerated from the alleged violations, and,

Whereas:

The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is proposing to introduce legislation that would allow the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs associated with investigating such cases where the violator is not exonerated.

Now, therefore, let it be resolved that:

Chapter 4 of the North Dakota Society of Professional Engineers offers its support and assistance to the North Dakota State Board of Registration for Professional Engineers and Land Surveyors in its efforts to introduce legislation authorizing the North Dakota State Board of Registration for Professional Engineers and Land Surveyors to recover costs involved with investigating violations or alleged violations, provided such authority is not contrary to and does not conflict with other laws of the State of North Dakota, the United States of America federal government, or other political subdivisions having jurisdiction over these matters.

This resolution is signed by the Chapter President, who is acting on behalf of, with the permission of and at the direction of the members of Chapter 4 of the North Dakota Society of Professional Engineers.


Chapter 4 FM Engineers President

12/13/02
Date

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Operator's signature

12/13/03
Date



**North Dakota State Board of Registration for
Professional Engineers and Land Surveyors**

721 West Memorial Highway • P.O. Box 1357 • Bismarck, ND 58502
701-258-0786 • FAX 701-258-7471

March 12, 2003

Chairman Duane Mutch
Industry, Business and Labor Committee
North Dakota Senate
Bismarck, North Dakota

Re: HB 1236

Dear Chairman Mutch and Members of the Committee:

My name is Lawrence Woodbury. I am the Secretary of the Board of Registration for Professional Engineers and Land Surveyors and I am writing in support of House Bill 1236.

House Bill 1236 is divided into two parts. The first is related to registration and renewal fees. At this time, these fees are at their statutory maximums. We are asking that the existing maximums be increased in order to give the Board the necessary latitude to adjust registration and renewal fees as needed to cover necessary Board expenses. As you can see from other written testimony, the last time the Board requested an increase in fee caps was 1957. In addition, also as provided in the written testimony, there have only been two other occasions where the Board has had to increase registration and renewal fees for something other than normal inflation. One was related to litigation and the other was related to the change in the Board's operating structure.

Even though the Board of Registration is not anticipating raising the registration fees this year, we are asking that the statutory caps be increased at this time so the Board can be proactive in its fiscal responsibilities. At this time, the current Board operating reserve is anticipated to fall below \$20,000 this fiscal year. Accepted accounting principles recommend that a responsible reserve would be 6 months of operating expenses. In the Board's case, that would be on the order of \$100,000. Based on the past fiscal history of the Board, we are projecting a balanced budget for the current biennium. Hopefully we will not have to ask for another adjustment for the next 46 years.

The second part of House Bill 1236 relates to recovery of legal costs associated with disciplinary matters that may come before the Board.

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Lawrence Woodbury
Operator's Signature

10/2/03
Date

HB 1236
Lawrence Woodbury

Page Two

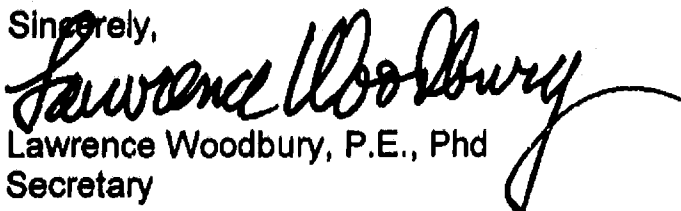
The recovery of legal costs would only occur where there is a significant finding against or adverse to a registrant or firm or both through a formal hearing process. A full or formal hearing is used only when an equitable resolution between all parties cannot be reached. Even though an adverse finding may be made against a registrant, every registrant against whom an adverse finding is made has the right to appeal that finding to a court of appropriate jurisdiction.

A few years ago, the Board expended approximately \$8,000 to \$10,000 on a disciplinary hearing where there was an adverse finding. These costs were borne by the Board, or more accurately, by the registrants. Of greater concern was a disciplinary hearing that occurred approximately 20 years ago that cost the Board in excess of \$75,000. Can you imagine what these costs would be today? Basically we are asking for this authority in order to protect the Board and its registrants from unusual legal expenses. The Board maintains a dedicated legal reserve fund of \$100,000. At today's legal rates, that certainly wouldn't last very long. We are financially self sufficient and we would like to remain that way.

Again, there are more details contained in other written testimony. Additionally, included with our written testimony are letters of support and resolutions from the Associated General Contractors, the North Dakota Society for Professional Engineers and the North Dakota Council of Consulting Engineers.

Again, I ask you for your support of House Bill 1236. Thank you for your consideration in this matter.

Sincerely,


Lawrence Woodbury, P.E., Phd
Secretary

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Operator's signature

10/2/03
Date

1
2

HB 1236 Background Information

3 The North Dakota State Board of Registration for Professional Engineers and Land Surveyors has had its
4 existing fee caps in place in the North Dakota Century Code since 1957. During the period between 1957
5 and 2003, the Board has had the authority to increase registration fees by Board motion as long as the
6 proposed motion did not exceed the statutory cap of \$100 per biennium. At the beginning of the 2002-2003
7 biennium, the Board had to increase registration fees to the \$100 cap. The chart below details the
8 progressive registration fee increases since 1957.

9

<u>Year</u>	<u>PE Registration Fee***</u>	<u>LS Registration Fee***</u>	<u>Corporate Registration Fee</u>
10 1957	\$ 5.00	\$5.00	\$10.00
11 1969	\$ 10.00	\$7.50	\$40.00
12 1982	\$ 17.50	\$17.50	\$50.00
13 1985*	\$ 27.50	\$27.50	\$100.00
14 1995**	\$ 44.00	\$44.00	\$100.00
15 2002	\$ 50.00	\$50.00	\$100.00

16 *In 1983, the Board was involved in a legal proceeding that was appealed all the way to the North Dakota
17 Supreme Court. Although the Board prevailed, it was still responsible for legal costs in excess of
18 \$75,000.00. In 1985, the Board made a special assessment of \$10.00 per registrant to help pay the legal
19 costs. Even with the special assessment, it took the Board of Registration 3 years to pay the legal fees in
20 full.

21
22 **In 1995, long-time Board Executive Secretary Vern Zink retired. Prior to 1995, the Board of
23 Registration received its administrative services through Mr. Zink as a contract employee. Upon Mr.
24 Zink's retirement, the Board opted to hire its own employees and secure its own office space. For the first
25 time since the Board was founded, it became responsible for office space leasing, equipment purchases,
26 employee payroll obligations and benefits, insurance, and all other costs associated with business operation.
27 To accommodate this change in administration, the Board increased renewal fees by \$16.50. The Board
28 has also increased its services since 1995. The Board meets more frequently and moves its meeting

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Donna Ball
Operator's signature

10/2/03
Date

Background Information

29 locations to various locations around North Dakota so as to be accessible to all registrants. Additionally,
30 the Board now publishes its own newsletter twice a year. The Board is also active in the ABET
31 accreditation visits that both UND and NDSU's engineering departments experience periodically.

32

33 ***In 1999, the Board changed its registration renewal period to biennial renewals as opposed to annual.

34 The fees in the chart represent annual costs, even though the fees have been billed biennially since 1999.

35

36 Board members are reimbursed expenses per state guidelines. The per diem rate of \$20.00 per day for
37 meals is paid only when Board members are required to be out of their own town on Board business.

38 Board members are paid an additional \$25.00 per day per diem when on Board business irrespective of
39 where they are. Mileage is reimbursed at the state rate of \$0.31 per mile. Out-of-state expenses are
40 reimbursed using the IRS rates. When hotel accommodations are required, rooms are booked at the state
41 rate. Board members are responsible for their own incidental expenses.

42

43 The Board publishes its proposed budget annually and is also audited by an independent auditor. The audit
44 report is submitted to the State Auditor's office for their review. The 2002-2003 fiscal budget calls for
45 revenues of \$195,705. The total expected expenditures are \$211,229. The difference of \$15,524 will be
46 taken from the Board's operating reserves. However, this will leave the operating reserve at \$17,476. The
47 Board also maintains a dedicated legal reserve of \$100,000. Wages and benefits constitute nearly 50% of
48 the Board's total expenditures. The remaining 50% of the projected expenditures are comprised of meeting
49 expenses, telephone, insurance, office operations, equipment, software, printing, legal costs, and
50 examination purchases. A comparative copy of the Board's revenues/disbursements summary is attached.

51

52 North Dakota's registration fees compare very favorably with those of surrounding states. It should be
53 noted, however, that North Dakota's registration fee is all inclusive and no charges are made for other
54 services. Other states, such as South Dakota, charge additional fees for wall certificates. States such as
55 Ohio, have lower registration fees but their application fees are \$250.00. When a registrant requests their
56 examination scores from some states, such as Nebraska, fees ranging from \$10.00 to \$35.00 are charged.

Background Information

57 When a registrant pays the registration fee in North Dakota, all services are included. Also, some states
 58 charge an additional fee for a non-resident applicant called a comity fee. The North Dakota Board does not
 59 charge non-residents fees in addition to fees charged to residents as it believes this would not be in the
 60 interest of economic development. The following chart details fees in surrounding states.

61 State	App. Fee	Registration Fee	Exam Fee	Comity Fee
62 North Dakota	\$50.00	\$100.00/2 yrs.	\$110.00	none
63 Iowa	\$35.00	\$60.00/1 yr.	\$195.00	\$100.00
64 Minnesota	\$75.00	\$120.00/2 yrs.	\$135.00	\$100.00
65 Montana	none	\$60.00/2 yrs.	\$135.00	\$250.00
66 South Dakota	\$100.00	\$70.00/2 yrs.	\$100.00	\$100.00
67 Wyoming	\$75.00	\$95.00/2 yrs.	\$120.00	\$75.00

68 This is a sampling of fees charged in surrounding states. Nationally, registration fees range from \$20.00 a
 69 biennium in Michigan to \$454.00 a biennium in Texas. States such as Michigan with very low registration
 70 fees are not "stand alone" regulatory boards. They are situated within a larger administrative framework
 71 and are under an umbrella agency. However, Michigan charges other fees that are quite substantial, such as
 72 a \$300.00 comity fee.

73

74 As to authority to recover legal costs, all states surrounding ND have the authority to do so. Those states
 75 include South Dakota, Montana, Minnesota, Iowa, Nebraska, Idaho, Michigan, Kansas, and Wyoming.
 76 Nationally, all states that the North Dakota Board of Registration works with on a regular basis already
 77 have this authority. Most other jurisdictions also have the authority to levy fines for both registrants and
 78 non-registrants, but the Board of Registration is not asking for that authority.

North Dakota State Board of Registration for Professional Engineers and Land Surveyors 2002/2003 Budget
--

Revenues:

	<u>2002/2003</u>	<u>2001/2002</u>	<u>Inc/(Dec)</u>
Endorsements Income	\$ 10,750.00	\$ 9,500.00	\$ 1,250.00
Renewals Income	150,225.00	120,500.00	29,725.00
Examinations Income	28,650.00	27,400.00	1,250.00
Miscellaneous Income	6,080.00	8,150.00	(2,070.00)
Other Revenues (Transfer)	15,524.00	38,471.00	(22,947.00)
Total Revenues	\$ 211,229.00	\$ 204,021.00	\$ 7,208.00

Disbursements:

Salaries & Wages	\$ 81,448.00	\$ 74,675.00	\$ 6,773.00
Fringe Benefits	21,610.00	17,366.00	4,244.00
Office Operations	11,140.00	13,995.00	(2,855.00)
Meetings & Travel	16,450.00	19,900.00	(3,450.00)
Office Rent/Lease	5,820.00	5,820.00	0.00
Telephone	4,000.00	4,500.00	(500.00)
Legal/Investigations	17,500.00	15,100.00	2,400.00
Audit Fee	950.00	950.00	0.00
NCEES Dues	5,000.00	5,000.00	0.00
Examination Expense	27,700.00	26,640.00	1,060.00
Equipment/Furniture	11,611.00	12,325.00	(714.00)
Printing Expense	1,500.00	1,250.00	250.00
Depreciation Expense	6,500.00	6,500.00	0.00
Total Disbursements	\$ 211,229.00	\$ 204,021.00	\$ 7,208.00

Review Information

Bill Number 1236
 LC Number 30446.0100
 Click for Bill Text
 Agency Engineers and Land Surveyors State Board of
 Registration for Professional
 Authorized Editors

FISCAL NOTE

Requested by Legislative Council
 01/13/2003

Bill/Resolution No.: HB 1236
 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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$12,945	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

Any present or future fiscal impact due to HB 1236 will affect only the North Dakota State Board of Registration for Professional Engineers and Land Surveyors.

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Operator's Signature

Date

The Board of Registration operates on revenues collected from registered professional engineers and registered land surveyors and does not receive any general fund monies. The term future is being used because the bill does not call for any immediate action by the Board of Registration and the monetary measure of any future action taken by the Board of Registration cannot be determined at this time. The figures used in 1.A represent the amount of increased revenues if the Board increases registration fees by \$5.00 per registrant per biennium. The Board is only asking that the registration fee caps be increased and does not anticipate increasing registration fees during this biennial period.

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.*

If the State Board of Registration raised registration fees, the increased revenues would be equal to the amount of the increase times the number of current active license holders. In a hypothetical example, if the State Board of Registration raised registration fees by \$5.00 per biennium for each of its 2,589 active license holders the revenue increase would be \$12,945.00. The fiscal impact of recovering legal costs associated with a disciplinary action where an adverse finding has been made is impossible to determine at this time as it is directly related to Board costs. In the past, disciplinary actions have incurred costs of \$400.00 to \$8,000.00.

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.*

No expenditures are anticipated with HB 1235 nor will any FTE position be 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.*

The State Board of Registration does not receive any general fund monies nor is its budget contained in the executive budget.

Name: Candle Robinson **Agency:** North Dakota State
Board of Registration
for Professional
Engineers and Land
Surveyors
Phone Number: 701-258-0786 **Date Prepared:** 01/16/2003

ATTACHMENTS

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Deanna G. Smith
Operator's Signature

1/21/03
Date



North Dakota State Board of Registration for Professional Engineers and Land Surveyors

721 West Memorial Highway • P.O. Box 1357 • Bismarck, ND 58502
701-258-0786 • FAX 701-258-7471

Proposed Revision to the North Dakota Century Code Chapter 43-19.1

Fee Cap Increase

The maximum biennial fee for professional engineers and land surveyors was established by action of the State Legislature in 1957. The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is planning to have legislation introduced during the 58th session of the North Dakota Legislature to enable the State Board of Registration to raise the present biennial fee caps to 200.00. Raising the fee caps would allow the State Board of Registration to establish renewal fees on a level consistent with its costs of operations.

- The State Board of Registration is a special fund agency which uses the revenues its collects to pay for the its costs of operation. Renewals constitute 70% of the State Board's revenues.
- The State Board of Registration operates in accordance to annual budgets which are established by four engineers and one land surveyor who are appointed by the Governor and together constitute the North Dakota State Board of Registration.
- Annual audits of the State Board of Registration have been filed with the State Auditors office since the State Board was established.
- The presently enacted fee caps have been in place for nearly forty-five years and the State Board has used restraint in approving fee increases over that period.
- Increased costs in health insurance, legal costs, salaries and other general costs will make it impossible for the State Board of Registration to continue its high level of service to its nearly three thousand registrants and operate in a financially viable manner.

Licensure Category	Current Statutory Biennial Fee Cap	Current Biennial Renewal Fee	Proposed Biennial Fee Cap
Professional Engineer	\$100.00	\$100.00	\$200.00
Professional Land Surveyor	\$100.00	\$100.00	\$200.00
Dual Registrants	\$190.00	\$190.00	\$380.00

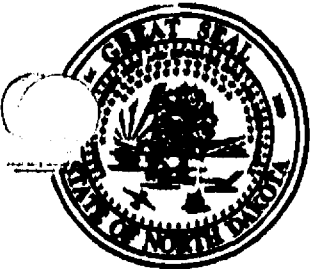
The North Dakota Board of Registration believes a fee cap schedule based upon its present and future operating costs will allow the State Board of Registration to continue to maintain its high level of service to the public and its various classes of registrants. The Board of Registration is asking for this level of fee cap increase in order to preclude the State Board of Registration from having to make frequent trips to the Legislature requesting the fee cap levels be increased again. The basis of this proposal is predicated on the careful and restrained approach that the State Board of Registration has exercised in this area over the past years.

December 16, 2002

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Dan H. H. H. H.
Operator's Signature

12/2/03
Date



North Dakota State Board of Registration for Professional Engineers and Land Surveyors

721 West Memorial Highway • P.O. Box 1357 • Bismarck, ND 58502
701-258-0786 • FAX 701-258-7471

Proposed Revision to the North Dakota Century Code Chapter 43-19.1

Legal Cost Recovery

The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is seeking to have legislation introduced during the 58th session of the North Dakota Legislature to *allow the Board to recover legal costs associated with disciplinary matters where there is a significant finding adverse to the registrant*. Currently, the Board assumes all costs for any disciplinary matter.

- The North Dakota State Board of Registration for Professional Engineers and Land Surveyors is a self-funded board and receives no form of monetary contribution from North Dakota's general fund.
- The Board is funded solely by payment of fees from registered Professional Engineers, registered Professional Land Surveyors, and engineering and land surveying firms.
- The North Dakota State Board of Registration for Professional Engineers and Land Surveyors has established a prudent and reasonable legal reserve fund but a significantly contested issue will seriously deplete or eliminate it.
- The North Dakota Legislature has indicated its concern with legal costs associated with boards and commissions.
- Because all of the Board's registrants pay equally, registrants requiring disciplinary action should pay for the legal costs associated with the prosecution of their misconduct.
- The Board has an established and published disciplinary procedure that ensures due process for any affected registrant.
- Every registrant against whom an adverse finding is made has a right to appeal that finding to a court of appropriate jurisdiction.
- Full hearings are used only when an equitable resolution between all parties cannot be reached. The cost recovery process would only be used when the full disciplinary process is used.

The North Dakota State Board of Registration for Professional Engineers and Land Surveyors believes this bill will correct a current inequity in North Dakota's registration laws. Please lend this proposed bill your full consideration.

November 26, 2002

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Dorinda Baller
Operator's Signature

11/21/03
Date

*Land Surveying & Planning
Construction & GPS Services*

ACKERMAN SURVEYING & ASSOCIATES

6008 Highway 2 East • Minot, ND 58701

(701) 838-0786

Fax (701) 837-1990

e-mail: ackerman@minot.com

Rolly B. Ackerman
Registered Land Surveyor

Robby L. Berard
Registered Land Surveyor

February 24, 2003

Re: HB 1256 Continuing Education

Dear Chairman Mutch and the Members of the IBL Committee:

My name is Rolly B. Ackerman, President of Ackerman Surveying & Associates, Inc. in Minot, North Dakota and currently act as the Vice-Chairman of the North Dakota State Board of Professional Engineers and Land Surveyors.

Our firm is based in Minot and currently employs 14 people in the summer months, consisting of Land Surveyors, Party Chiefs, Cadd Operators and Rodman for our business.

We provide Land Surveying and Construction Surveying, both Preliminary and Construction for Private and Public needs.

In the Land Surveying side, we do anything from Farmstead surveys to Residential and Commercial Developments.

On the Construction Surveying side we provide Preliminary and Construction Surveying on Rural and Urban Transportation Projects and probably are involved in 90% of the Preliminary and Construction Staking at the Minot Air Force Base.

I am writing in support of HB 1256 and HB 1236. HB 1256 addresses the ever changing field of Engineering and Land Surveying and as an employer I am willing to invest in Continuing Education to keep up to the latest technical advances that the Profession has seen in the last 30+ years that I have experienced.

Member Of



Member Of



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Dorinda Ballarín
Operator's Signature

10/2/03
Date

Ackerman Surveying & Associates - HB 1256

There are several ways to obtain continuing education credits across the states. Self study, active participation in state societies and more and more programs offered over the Internet is a very economic way to maintain our professional status and above all, to protect the public.

I know things like this are not always popular, but the overall benefit to the public in enhancing our profession, by far outweighs the negative.

HB 1236 enables the State Board of Registration for Professional Engineers and Land Surveyors to raise registration fees and recover costs from a disciplinary action. Both items in this bill are reasonable and I would encourage your support.

Thanks again for your support.

Sincerely,


Rolly B. Ackerman

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Operator's Signature

10/2/03
Date

ACEC

American Council of Engineering Companies

Jerold R. Backes, PE
President
P.O. Box 1077
Bismarck, ND 58502-1077

North Dakota

Web Site: www.acecnd.org

e-mail: jerry.backes@bartwest.com
phone: (701) 258-1110
cell---: (701) 226-1382
fax---: (701) 258-1111

March 7, 2003

Industry, Business and Labor Committee
North Dakota Senate
Bismarck, North Dakota

Chairman Mutch and Committee Members:

ACEC/ND is an organization of engineering companies within the state of North Dakota. We are a nonprofit, voluntary, self-governing, and self-funded body organized to assist our members in achieving higher professional, business, and economic standards. All members of the ACEC/ND are registered to practice professional engineering under the laws of North Dakota and many hold registrations in other states. I currently have the privilege of holding the office of president of this organization and wish to advise you of our position on the legislation before you.

ACEC/ND POSITION ON HB1236

ACEC/ND supports the passage of HB 1236. We urge the committee to recommend passage to the legislature. Passage is recommended for the following reasons:

- Increased fees are required to provide increased funding to enable the State Board of Registration to continue to function properly.
- The current limit on renewal fees structure has been unchanged for approximately forty-five years. The State Board of Registration in that time gradually increased annual fees to cover increasing costs until the limit was met. The State Board has a history of restraint in implementing increases, and have based past increases on the funds needed for efficient operation and not merely the limit set by statute.
- Increasing the limit will allow the State Board flexibility in maintaining the needed funding level without repeated returns to the legislature for requested increases.

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Deanna Hall
Operator's Signature

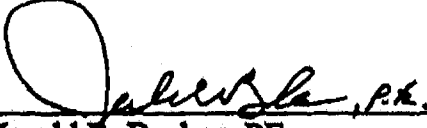
10/2/03
Date

The bill also incorporates the ability of the State Board to recover reasonable and actual costs in a successful disciplinary action. We feel this advisable to provide this power for the following reasons:

- The State Board is funded primarily from the fees collected from its members. All registrants through their renewal fees currently provide costs incurred in disciplinary actions even though the vast majority have never been or never will be involved in a disciplinary action.
- The requested power to allow recovery of reasonable and actual costs in a successful disciplinary action would properly transfer the cost to those parties or individuals that necessitate action. Note that recovery is only allowable if the action is successful and goes to a full disciplinary action.
- Providing this authority will also allow the State Board to properly pursue the needed actions without placing an unnecessary burden on the Board or the registrants.

We thank you consideration of this legislation.

Sincerely,



Jerold A. Backes, PE
President
ACEC/ND



Operator's Signature

10/2/03

Date

Curt Peterson
Executive Vice President

Associated General Contractors of North Dakota



422 North 2nd Street, Box 1624, Bismarck, North Dakota 58502 • Phone: 701-223-2770 • FAX: 701-223-6719

Mr. Gary Arman
State Board of Registration for Professional Engineers and Land Surveyors
PO Box 1357
Bismarck, North Dakota 58502

Re: House Bills 1236 & 1256

Dear Gary,

The Associated General Contractors of North Dakota would like to express its support for House Bill No. 1236 and 1256; which deal with registration fees and recovery of litigation costs in disciplinary matters and to provide for retired status and continuing education requirements, respectively.

We see the bills contents as reasonable and will offer no objection to their passage.

Should you have any questions please don't hesitate to contact us.

Sincerely,
AGC of North Dakota

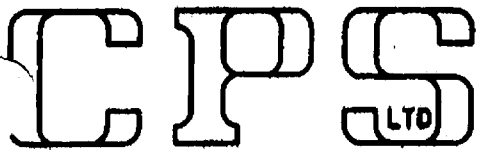
Mark Dougherty
Membership Services Director

BUILD WITH THE BEST

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ENGINEERING • LAND SURVEYING • PLANNING

308 2nd AVENUE NORTH
GRAND FORKS
NORTH DAKOTA 58203

PHONE (701) 746-7459
FAX (701) 746-8948

February 10, 2003

Duaine Espegard
3649 Lynwood Circle
Grand Forks, ND 58201

Via email despergar@state.nd.us

Dear Duaine:

The two bills I mentioned at the North Dakota Museum of Arts Dinner, which involve engineering issues are; HB 1236 and 1256 and were received by the Senate on January 31 and February 2, 2003.

HB 1236: A Bill for an Act to amend and reenact sections 43-199.1-18 and 43-19.1-25 of the North Dakota Century Code, relating to professional engineer and land surveyor registration fees and recovery of legal costs in disciplinary matter. It passed the House 78-10.

HB 1256, Which pertains to professional license "Retired Status," engineering licensing changes and continuing education, was considered by the House and passed the House 89-1.

These two Bills were sponsored by the North Dakota State Board of Professional Engineers and Land Surveyors and are strongly supported by the North Dakota Society of Professional Engineers (NDSPE). Currently I am the past President of NDSPE and during my four years as a state officer we have worked very hard with the Board of Registration, land surveyors, universities and other engineering groups to update our state registered engineering requirements, especially the continuing education provision which is now required in all adjoining states.

At our December NDSPE Board meeting, we passed five unanimous resolutions supporting the content of these bills. Also I personally strongly support both HB 1235 and 1256 and would respectfully request your support for both bills. Mike Samson, who is a Registered Land Surveyor in our office and is the Past President of the North Dakota Land Surveyors Association, will be providing written testimony in favor of the bills.

If you have any questions or need any additional information on these bills, please contact me thru email (dwieland@prodigy.net) or at 701-746-7459. Duaine, thanks for your help on this issue.

Respectfully yours,
CPS, Ltd.

Dean Wieland, P.E.

DRW:sw

Cc: Cliff Keller - ND State Board of Professional Engineers and Land Surveyors
Mary Nelson - North Dakota Society of Professional Engineers (NDSPE)

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10/2/03
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Houston Engineering, Inc.

2505 N. University Dr., Box 5054 ■ Fargo, ND 58105-5054 ■ Ph: 701-237-5065 ■ Fax: 701-237-5101

February 14, 2003

Senator Duane Mutch, Chairman
North Dakota State Senate
Industry, Business and Labor Committee
Bismarck, ND

Subject: Written Testimony in Support of HB-1236

Dear Chairman Mutch and Members of the IBL Committee:

My name is Lawrence H. Woodbury, President of Houston Engineering, Inc. Our firm has offices in Fargo and Bismarck, and is engaged in the professional practice of engineering and land surveying in the state of North Dakota. We have 60 employees, 23 of which are licensed engineers and land surveyors. I am a registered professional engineer and I also serve on the Board of Registration for Professional Engineers and Land Surveyors. I am currently in my second term on the Board of Registration, having already served seven years. In the past seven years I have served as secretary, vice chairman and chairman.

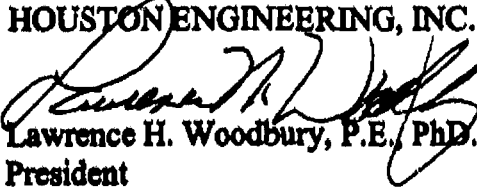
HB-1236 is a modest bill, which provides for two significant changes in the current registration law in North Dakota for Professional Engineers and Land Surveyors. The first provision calls for an adjustment of the cap on registration fees contained in Section 43-19.1-18. The current law calls for fee caps that were established in the 1950's and they are long out of date. In addition, the Board of Registration's administrative costs have understandably increased over the last 50 years to the point where the Board must look elsewhere to its reserves to cover costs of operation. Our firm pays registration fees for all of our professional engineers and land surveyors. This modest proposal for increasing registration fees is definitely needed in order for the Board of Registration to adequately do its job in protecting the "health, safety, and welfare" of the citizens of North Dakota.

A second provision of HB-1236 provides a means for the Board to recoup legal and administrative costs in matters of disciplinary action where a registrant is found guilty. It is not fair to the vast majority of our registrants for them to have to pay legal and administrative costs for guilty parties involved in violations of our North Dakota Registration Laws. This provision is totally consistent with existing requirements of other boards and agencies in the State of North.

On behalf of our firm, I strongly urge you to consider a recommendation of "DO PASS" on HB-1236.

Sincerely,

HOUSTON ENGINEERING, INC.


Lawrence H. Woodbury, P.E., Ph.D.
President

LHW:jo

Minneapolis Office ■ 10900 73rd Ave. N., Suite 106 ■ Maple Grove, MN 55369-5400 ■ Ph: 763-493-4522 ■ Fax: 763-493-5572
Bismarck Office ■ 304 East Rosser Avenue, Suite 220 ■ Bismarck, ND 58501-4012 ■ Ph: 701-323-0200 ■ Fax: 701-323-0300

Equal Opportunity Employer

www.houstonengineeringinc.com


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10/2/03
Date

TESTIMONY IN SUPPORT OF
HOUSE BILL #1236

To: Senator Duane Mutch, Chairman
Industry, Business and Labor Committee

From: Gene Jackson 
Member of the North Dakota State Board of
Registration for Professional Engineers and Land
Surveyors
and
President, Kadrmas, Lee & Jackson Engineering

Kadrmas
Lee &
Jackson
Engineers, Surveyors
and Planners

1 Mr. Chairman,

2
3 Please accept this as my strong personal support for House Bill
4 #1236. In addition, this testimony is offered to reinforce the support of
5 the North Dakota State Board of Engineers for Professional Engineers
6 and Land Surveyors of which I am a member. Equally important, this
7 testimony represents the support of my company, Kadrmas, Lee &
8 Jackson Engineering; a 220 person North Dakota engineering firm
9 that employs some 55 engineers and 18 land surveyors.

10 This bill modifies two sections of NDCC 43-19.1

11 In modifying 43-19.1-18, we simply intend to increase the fee
12 cap imposed by State Law on our own annual fees as engineers and
13 land surveyors. Our State Board supports this increase. My company
14 supports this increase. All of our engineering and land surveying
15 professional societies support the increase. Our State Board expects it
16 will take many years before we actually reach the new fee cap of \$100
17 per year proposed in this legislation.

ENR
TOP 600
Design Firm

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10/2/03
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18 Our proposed modification to 43-19.1-25 concerns the present
19 inability of our State Board to recover legal and administrative costs
20 it incurs during disciplinary procedures against an engineering or
21 surveying registrant who is found guilty of fraud, deceit, gross
22 negligence, incompetence, misconduct or breach of ethics. Most other
23 Boards similar to our State Registration Board now have this
24 authority. Again, our State Board supports this law change. Our
25 company, Kadrmas, Lee & Jackson, supports it. The various technical
26 societies support it.

27 In the end, both of these issues allow our State Board to be
28 fiscally responsible, independent of financial support from the State of
29 North Dakota. We readily embrace that responsibility and ask that
30 you act favorably in approving House Bill #1236.

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Dennis Ball
Operator's Signature

10/2/03
Date

February 10, 2003

Duane Mutch, Chairman
Members of the Committee, Ladies and gentlemen.

I would like to thank each of you for your dedication and diligent work in support of efficient, locally controlled State Government.

Briefly I would share with you that I served 15 years on the State Board (1981-1996). President Elect, President and Past president of the National Council of Examiners for Engineers and Land Surveyors(1986-1989).


I'm proud to compare the dedication of the North Dakota Board members with some of the activities of other states and jurisdictions. These jurisdictions extend from Alaska to Puerto Rico and from Main to Guam.

The North Dakota Board has long used the entire first day of approximately nine face to face meetings each year to discuss issues of health, safety and public welfare affecting Engineering and Surveying. Their meetings are rotated around the state to provide convenient access for registrants throughout the state. They are generally two day meetings beginning early the first day extending into the night, Convening the second day at 8:00 AM and adjourning near mid afternoon to allow members to return to there homes. Telephone conference calls are used for selected items of business.

Review of all applications by individual board members generally takes 12 to 16 hours prior to each meeting. Financial compensation for these activities would be two days at \$25/day plus per diem of \$20 for those members who are away from their residence. This item is not expected to change. By Comparison as a member of the National Board that I served on a member from New York received \$100 per day on National business. I received none as I believe is appropriate. In conclusion we always like to contain costs and I believe the Board has done that effectively.

In reality we find that costs do escalate. May I urge you to look favorably on this legislation and recommend its passage.

Best Regards


Dennis F Meyer PE
Past President, NCEES

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10/2/03
Date

North Dakota Society of Professional Engineers

A State Society of the
National Society of Professional Engineers

Er. Kevin G. Nelson, P.E./L.S.I.
Secretary/Treasurer

March 3, 2003

RE: H.B. 1236

Industry, Business and Labor Committee
North Dakota Senate
Bismarck, North Dakota

Dear Chairman Mutch and Committee Members:

Before you, for your consideration, is a bill that will help the North Dakota Board of Registration for Professional Engineers and Land Surveyors (the Board) remain financially responsible to the professionals that the Board regulates and to the public it serves. My name is Kevin Nelson. I am a Professional Engineer and Land Surveyor intern. I am currently the Secretary/Treasurer of the North Dakota Society of Professional Engineers and I have served the Society in that capacity for eight years. The North Dakota Society of Professional Engineers is in favor of this bill and we urge you to support it.

This bill addresses two financial issues for the Board. First, it increases registration fee caps that were established 46 years ago. Second, it provides the Board the authority to recover costs incurred during disciplinary proceedings when a registrant is found guilty of an action worthy of disciplinary action.

With its proven track record of being fiscally responsible, the Board is seeking an increase in the fee caps so it can continue to provide exceptional service to the public and to the registrants it serves. After operating within fee caps established in 1957, the Board only recently reached those maximums. Raising the fee caps does not, necessarily, mean the Board will increase registration fees. It gives the Board the opportunity to keep revenue consistent with the necessary and prudent costs of conducting the business of the Board. Registration fees are the Board's predominant source of revenue. As business costs continue to rise, the Board needs to recover those increases in expenses. The most logical way to cover the increases is through small, incremental increases in registration fees. Since the current fees are at the current fee cap level, the fee caps need to be raised.

The Board has the duty and the authority to oversee Professional Engineers and Professional Land Surveyors licensed in North Dakota. This charge includes disciplining these professionals, when necessary. Through the disciplinary process, the Board can incur, and has incurred, costs to investigate and prosecute the misconduct of some licensed professionals. Presently, the Board has no direct way to recover these costs. Therefore, a part of each honest and honorable registrant's licensing fee must be used to pay the costs of investigating and prosecuting the wrongdoing of an occasional few registrants that get led astray. Costs to investigate and prosecute these infrequent events

3831 Kingston Drive
Bismarck, ND 58503-8286
(701) 258-2818
email: Secretary@NDSPE.org
web: www.NDSPE.org

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NDSPE
email: Office@NDSPE.org
web: www.NDSPE.org

of misconduct can be exorbitantly high, possibly completely draining all of the Board's financial resources. Without a means to recover these costs, the Board could face financial hardship. Allowing the Board to recover reasonable and actual costs for investigating and prosecuting misconduct will help the Board address the North Dakota Legislature's concerns about the financial responsibility of boards and commissions, especially as they pertain to legal costs.

The North Dakota Society of Professional Engineers represents the profession of engineering in our great state through 250 members, who come from a diverse array of engineering specialties. The diversity of our membership spans a variety of employment opportunities (government, industry, private practice, construction and education) and employment capacities (e.g., business owners, company presidents and CEO's, managers, and employees) as well as an assortment of engineering disciplines (e.g., mechanical, electrical, civil, chemical, etc.). We represent the professional side of engineering, leaving the business and technical aspects to other organizations.

In addition to this testimony, the North Dakota Society of Professional Engineers has adopted resolutions of support for this legislation. These resolutions come from the Board of Directors of the State Society and from the local chapters that form the "grassroots" of the Society. You have been provided copies of these resolutions.

Thank you for considering the North Dakota Society of Professional Engineers' testimony on House Bill 1236. We strongly encourage you to give the bill a "Do Pass" recommendation.

Sincerely,

Er. Kevin G. Nelson, P.E./L.S.I.
NDSPE Secretary/Treasurer

Page 2 of 2

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Operator's Signature

10/2/03
Date

March 6, 2003

Industry, Business and Labor Committee
North Dakota Senate
Bismarck, North Dakota

RE: H.B. 1236

Chairman Mutch
Members of the Senate, Ladies and gentlemen:

The IBL Committee is considering a bill that will aid the North Dakota State Board of Registrations of Professional Engineers and Land Surveyors to stay financially sound. My name is Larry J. Smith. I am a registered Land Surveyor, a principal at the surveying and engineering firm of Swenson, Hagen & Co. in Bismarck ND. I am in support of this bill and urge you to support it.

These are two financial items HB1236 addresses.

First the item of the registration fee cap and the second the authority to recover costs during a disciplinary hearing when the registrant is found guilty of a disciplinary action. The board is and has been fiscally sound. The bill will allow the board to raise the fees for registration and still provide the excellent service to the engineers and surveyors of North Dakota. The fee caps were established forty plus years ago. As we all know the cost of doing business has increased substantially over the past four decades. The board is currently at its maximum fees. Revising the fee cap will allow the board to continue providing the quality service to the surveyors and engineers in North Dakota.

The cost recovery is an important issue. The board has the responsibility to investigate complaints against surveyors and engineers. If the complaint progresses to the hearing process substantial costs can be incurred by the board. If the registrant is found guilty and a disciplinary action is taken, the board should be able to recover the costs associated with the hearing. I believe we have and will have future boards that will be fair and just in their investigative and hearing process. The bill allows the board to be fiscally sound. By granting authority to recover legal costs, a large, complex investigation and hearing will not deplete all board funds.

I wish to thank the committee for considering my testimony on HB1236. I strongly encourage you to support the bill and give a "Due Pass" recommendation.

Larry J. Smith

Larry J. Smith, RLS

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Dan Hall
Operator's Signature

10/2/03
Date

4441
4/2
APR 03

Information on Disciplinary Actions,

ND State Bd of Reg. for PE/LS

Each year the State Board of Registration receives 4 to 5 complaints

Disposition

About 1 out of 8 to 10 complaints end up at the formal disciplinary hearing stage. Over the past five years, three complaints have gone to the formal disciplinary hearing stage. Of those three, guilty conclusions were reached in two of the cases with an innocent finding in the third. In the two situations where guilty conclusions were reached, the penalties imposed included issuance of a letter of reprimand and 30 and 60 day suspensions.

Of those complaints that do not reach the hearing stage, about 30% are dismissed after conducting a preliminary investigation into the matter, with the balance of the complaints being further investigated and resolved prior to a formal disciplinary hearing. Some common disciplinary actions include; issuance of a letter of reprimand, establishment of a probationary period, satisfaction of the complainant's demand (i.e. - redo a survey).

Financial

The average legal/investigation cost for a disciplinary matter that advances to the formal administrative hearing stage is \$7,000.00 - \$10,000.00. This is the situation that HB 1236 addresses and the circumstances under which the State Board of Registration would have the power to assess legal and investigation costs.

For complaints that do not advance to the hearing stage, the legal/investigative costs range, on the average, from \$500.00 - \$1,200.00. HB 1236 does not address the authority to assess legal and investigation costs in those instances where the complaint does not reach the formal disciplinary hearing stage.

2003 Update

Thus far, the State Board of Registration has received three complainants. One has been dismissed and the other two are currently under investigation by the State Board of Registration.

ADMINISTRATIVE
LAW JUDGE
INVESTIGATIVE
COMMITTEE
(2 MEMBER + EXEC DIR)
OTHER
3 MEMBERS - JURY
FINDINGS & PUNISHMENT
ALJ
PRESIDES
TO ASSURE
DUE PROCESS

Deanna Hall
Operator's Signature

10/2/03
Date

April 3

Formal Disciplinary Hearing

ALJ Administrative law judge

Investigation Committee (2 members plus executive director)

Other 3 members-

jury findings of fact & punishment

ALJ presides to assure due process

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Operator's Signature

10/2/03
Date

FEEES

28-32-70 New
28-32-21.1/ Old

43-05 Podiatrists			
43-05-16.1	43-05-16.7		28-32-26
43-09 Electricians			
43-09-23			
43-10 Funeral Service Practitioners			
43-10-16			
43-13 Optometrists			
43-13-21.1			
43-17 Physicians			
43-17-31.1			
43-28 Dentists			
43-28-21			
43-29 Veterinarians			
43-29-16			
43-30 Investigative & Security Service			
43-30-12			
43-40 Occupational Therapists			
43-40-16.2			
43-42 Respiratory Care Practitioners			
43-42-03			
43-47 Counselors			
43-47-07.1			
43-02 Accountants			
43-02.2-04			
43-06 Chiropractors + Civil Penalty Assessment			
43-06-14.1	43-06-19		

Attorneys (27-14) fees/costs ordered as a matter of cause

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