

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1294

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1294

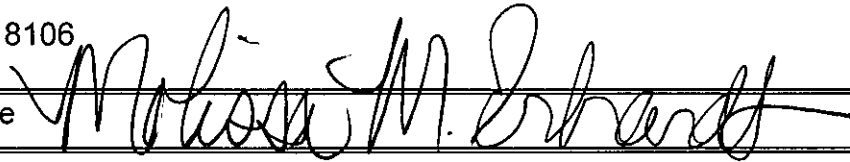
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/29/2009

Recorder Job Number: 8106

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on HB 1294. Clerk read the title.

**Rep. David Monson, Speaker of the House:** I was not going to testify, but I was going to come down here and sign in that I was in favor of this, and Rep.

Wald is the prime sponsor and said this is a good bill, you should be on it, and it was one of those "trust me" things, so here I am standing here in front of your committee. For the record, I am Rep. David Monson from District 10. I already told you why I am on the bill but I think just going to turn it over to the people that know something about it. If Rep. Wald is not here we will just let the insurance department handle it. Don't ask me any questions because I will not be able to tell you much.

**Larry Martin, ND Insurance Department, Account/Budget Specialist:**

Testimony. See Attachment #1.

Chairman Grande after talking with OMB briefly this morning we would like to

make an amendment to this bill. The amendment is on Line 13 of this bill. We

would like to strike out the phrase "at the request of the commissioner". The ND Insurance Department is the only department who knows the fund balance at the end of year. So the request has to come from us. The treasurer's office or OMB does not know this amount because of the way the funds are separated. Our intention was not to make this a discretionary option and OMB felt that in the future it may be taken as discretionary. So we are okay with removing that language.

**Chairman Grande:** Does the committee all see that change? Any questions of Mr. Martin?

**Rep. Kasper:** Bottom of Page 1, Top of Page 2, you are expanding authority to issue bonds, I think, "the commissioner determines necessary to carry out the purpose of the fund and determines necessary to carry out the purposes of the fund and, in determining the amount of coverage to be offered, the commissioner may consider the reserves necessary to pay the bonds for all other necessary costs or expenses to carry out the purposes of the fund." What are we getting at with that sentence?

**Larry Martin:** Rep. Kasper that is a good question, but if you can hold it Jeff Bitz, our program administrator for the bonding fund will be up to speak a little bit later.

**Rep. Kasper:** On the transfer to the general fund, the dollars you are collecting right now are coming from the insurance industry, is that correct?

**Larry Martin:** That is correct.

**Rep. Kasper:** Has it been in the present and in the past that anything over a million dollars you will have to transfer it to the general fund?

**Larry Martin:** Yes, I believe that it has been in the statute for quite some time.

**Rep. Kasper:** Okay, so we have a self-regulatory agency, the insurance department, raising funds from the insurance industry, and keeping a million for reserve and the rest in the general fund?

**Larry Martin:** That is correct.

**Rep. Kasper:** How many dollars do you collect on a biannual basis from the insurance industry?

**Larry Martin:** It varies from year to year. The price information from appropriations this past week is around the \$8 million mark. The fines that we collect vary or can vary, depending on if there are any investigations or fines levied against insurance agents. But the fees are generally and consistently around the \$8 million mark.

**Jeff Bitz, Administrator, State Bonding Fund, ND Insurance Department:**  
Testimony. See Attachment #2.

**Rep. Amerman:** Could you give me an example under Page 2 of your testimony, the last Section 26.1-21-24? An entity or political subdivision can go out and get additional bond coverage?

**Jeff Bitz:** Here is an example: Cass County, has a large bond. The bond that they would request would more likely than not and currently does exceed the \$2 million that the funds currently provide. The \$2 million is what our reserve balance is. So we cannot bond any entities greater than \$2 million because we do not have the ability to pay. This section does not give any one the authority but says that if they do need a bond greater than \$2 million, to protect themselves because they have a \$40 million budget and need more than \$2 million, then the bond that they would purchase in excess of \$2 million would be filed with us and we would have evidence of that bond so that if a claim was filed we would have that.

**Rep. Kasper:** Walk me through, on the bottom of Page 1 and the top of Page 2, with this amendment on the commissioner issuing bonds. Give me some numbers?

**Jeff Bitz:** For example: In terms of the bonding limit, through taxes, mills, and every else, they have a revenue of \$4 million. Currently we are using, based upon the ending monthly balances, as a benchmark or guideline before giving them coverage up to the maximum of \$2 million. On a \$40 million budget or

revenue we cannot give them 25 % of \$10 million. We have to limit that to \$2 million. That would be the best example I would have.

**Rep. Kasper:** So you limit it to \$10 million, I mean you don't go to \$10 million, you go to \$2 million, but here it says the commissioner may issue bonds. Are you then having them pay a premium for the excess \$8 million or does the county/city get their own? What happens to the short-fall of that 25%?

**Jeff Bitz:** The entity would go out and purchase its own bond.

**Rep. Kasper:** So they are going to buy the \$2 million from the fund and \$8 million from the private sector or some other place?

**Jeff Bitz:** Yes.

**Rep. Kasper:** This allows the commissioner to issue the bonds up to the two million?

**Jeff Bitz:** Yes.

**Rep. Kasper:** And someplace else in the statute this is limited to \$2 million?

**Jeff Bitz:** The statute will basically give the authority to the commissioner to provide bonds with our ability to pay.

**Rep. Kasper:** Then he charges a premium for the \$2 million bond?

**Jeff Bitz:** We don't charge a premium right now for a bond. As long as the surplus in the bonding fund remains above \$2 million, we don't charge a premium

and we haven't charged a premium since 1953. So they get the bond from the State Bonding Fund at no cost.

**Rep. Kasper:** So what happens if you had 6 claims come in this year at \$2 million each? You would have \$12 million in claims, and you have a \$2 million fund? Is that correct?

**Jeff Bitz:** That is correct.

**Rep. Kasper:** So your short \$10 million.

**Jeff Bitz:** If those judgments would come in, yes.

**Rep. Kasper:** Is that good public policy?

**Jeff Bitz:** No.

**Rep. Kasper:** So what are we doing to address that in this bill or any other place with the reserve fund?

**Jeff Bitz:** Right now there is nothing being done with that. If we would have more than one claim to much of a claim that would come in that would basically, potentially, kick the liability or what our reserves are.

**Rep. Kasper:** The liability for anything over \$2 million is the State of ND's liability?

**Jeff Bitz:** We would have to go and access premiums where we have gone over in order to shore up that shortfall.

**Rep. Kasper:** If these claims were \$12 million the State of ND would pay the \$10 million then you would assess premiums after the fact to collect the \$10 million back?

**Jeff Bitz:** That could be through some type of emergency appropriations, I would assume.

**Rep. Kasper:** When was the limit of the \$2 million raised last?

**Jeff Bitz:** The floor of the fund was reduced in 2005 from \$2.5 million to \$2 million. In 2005, there was a \$2.8 million (?) from the general fund.

**Rep. Kasper:** Do you have a history of how many claims that the fund has paid over the last ten years?

**Jeff Bitz:** Yes, I do. Right now we have received approximately 57 claims that have been filed since 1999. Of those 57 claims approximately 24 claims have been paid off. In total aggregate right now (someone coughing) in 2003. Currently, there is a balance owing on the 24 claims of \$1.3 million.

**Rep. Kasper:** An outstanding balance?

**Jeff Bitz:** Yes.

**Rep. Kasper:** Could we get a complete copy of the claims history that Jeff had just gone over and take a look at what is going on there?

**Chairman Grande:** Is that available?

**Jeff Bitz:** That is available and I will be happy to provide it for you.



**Chairman Grande:** Questions from the committee? Anybody else wishing to speak in favor of HB 1294?

**Vice Chairman Randy Boehning :** Mr. Bitz, If you go below the \$2 million, what would the assessment be to each subdivision? Do we have a set amount per employee? In the additional, bonds for the additional dollars, is it going to be like \$2.50 per person/per employee? How do we bring this fund back up when we go below it? Do we have a dollar amount that would be set to assess the local subdivisions or how do we go about that?

**Jeff Bitz:** The code says that the their will be a minimum of \$2.50. We have approximately 2,956 bond holders, of those bond holders, that represents approximately 52,000/53,000 employees that covers. Depending upon the shortfall, would determine the amount that we want to collect from a bond holder based upon the number of employees would determine how far in the future we would want to collect that.

**Chairman Grande:** Opposition? Neutral? Hearing closed on HB 1294.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One HB 1294

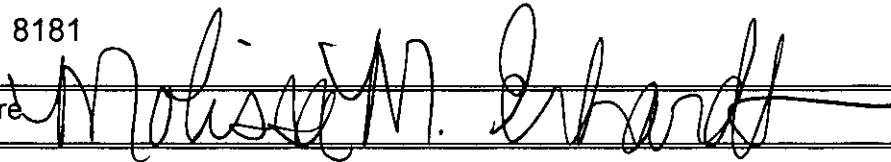
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/29/2009

Recorder Job Number: 8181

Committee Clerk Signature



Minutes:

### Committee Work One:

**Chairman Grande:** You have the information that was requested in front of you on HB 1294. Rep. Kasper do you think we need to address the \$2 million dollars on that?

**Rep. Kasper:** I talked to the insurance people out in the hall and to give you a little history here, in 2003 in the legislative session when we were short money and we were raiding all the special funds we could find. One of them was the bonding fund. They took \$5 or \$6 million out of it to help balance the budget and they moved the cap down to \$2 million. When you have a potential liability of \$527 million and you have \$2 million reserve and they have ongoing claims, I think we should consider replenishing this fund. I asked them where the funds should come from? Now we may be playing in appropriations, I don't know but the Insurance Department collects fees and fines and premium taxes and its self perpetuating and they get about \$8 million dollars into their fund and they

generally turn back \$4 to \$5 million dollars to the general fund because that is what the law says. Would sure like to figure out the process of taking some of the money that they turn back to the general fund and increasing this fund amount to \$4 million or \$5 million and try to replenish it. I don't know if we have the ability to do that in this committee.

**Chairman Grande:** Do you want to check on that and then check with leadership and see if we have that ability. He knows how all the appropriations work so he can tell if it can be appropriated that way or if we put a fee in here or something.

**Rep. Winrich:** If I understood the process correctly, I think changing that floor from \$2 million to \$5 million or something like that would be the required step. I think that the money that they accumulate comes from this \$2.50 per employee or something that goes to bonding chart.

**Rep. Kasper:** No, they are not charging that fee, they are not charging anything right now.

**Rep. Winrich:** Because the fund has been solvent.

**Chairman Grande:** Didn't you say they are in the hole \$1.4 million?

**Vice Chairman Randy Boehning:** \$1.3 million in the hole.

**Rep. Winrich:** I didn't quite follow that either but someplace in here there is something about money in excess of the \$2 million floor being returned to the

general fund. So if the floor is simply changed then it would be money in excess of whatever the reset point is.

**Rep. Kasper:** Sure.

**Rep. Winrich:** That would be what would need to be checked for sure.

**Rep. Kasper:** It is on Line 14, Page 1, since 1999 they have had \$1.3 million outstanding balance of claims. They have 57 claims filed and 24 claims paid out \$1.3 million. If we amend the dollar amount up, but then we would have to put the funding source in.

**Vice Chairman Randy Boehning:** During the testimony when they collect when the fund goes below the \$2 million there is a \$2.50 fee or whichever amount that the insurance department wishes to collect from each subdivision in order to replenish the fund. So if there is between there 52 and 53 people that are covered so that they take like a \$2.50 fee per person. They would collect from each subdivision that way from my understanding in the testimony that way.

**Chairman Grande:** I kind of gathered that as long as they thought it was healthy they were not charging a fee and if they felt like they needed money they started charging a fee again.

**Vice Chairman Randy Boehning:** Once it fell below \$2 million.

**Chairman Grande:** So now what do we do just request that they start charging a fee again?

**Vice Chairman Randy Boehning:** They already do that once it falls below the \$2 million.

**Chairman Grande:** But we want it to have a better fund than \$2 million.

**Vice Chairman Randy Boehning:** They are going to have to collect a set amount.

**Rep. Conklin:** What does it cost to get bonded with a regular insurance company?

**Chairman Grande:** I don't know. But bonds are not cheap.

**Rep. Winrich:** On page 2, Line 17-19, it says that the premiums must continue to be collected until the reserve fund reaches a total of \$3 million at which time all premiums must again be waived until the reserve fund has been depleted below the sum of \$2 million. That is where we can change the floor.

**Chairman Grande:** Actually, whenever the reserve fund is depleted below the sum of and then take that to a different million dollar amount there and then take the \$3 million to a different dollar amount.

**Rep. Winrich:** And it also appears on Line 15.

**Rep. Kasper:** If you read on Page 1, of Jeff Bitz's testimony, the fund was established in 1919 with no premiums being charged since 1952. The law is saying that the fund has to go below \$1 million.

**Vice Chairman Randy Boehning:** It is \$2 million, the \$1 million is a different fund. That would be the operating loan. Madam Chair should we do a subcommittee?

**Chairman Grande:** Unless the committee has a dollar amount, we can punch it in there.

**Rep. Winrich:** On Page 2, this has a floor of \$2 million referred to as the reserve fund. I think the fund balance must be the excess over the reserve.

**Chairman Grande:** Committee members, someone wish to take this up?

**Rep. Wolf:** Since 1953 there hasn't been an issue, if they felt the floor was too high or too low I think the insurance commissioner would be here saying something about it. They were here and they didn't say anything about it and they didn't ask about it?

**Chairman Grande:** What I would like is for someone to visit with the Insurance Commissioner and get clarification on this outstanding claim of \$1.4 million. The fact that we have \$154 million in bonding out but only \$2 million in a fund and how these numbers are all supposed to be matching up.

**Rep. Kasper:** I will do it.

**Chairman Grande:** Does anyone wish to go with?

**Rep. Nathe:** I will go with.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work HB 1294

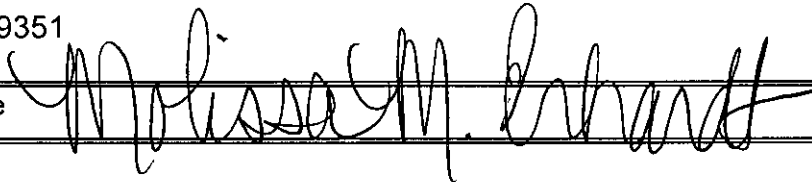
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/12/2009

Recorder Job Number: 9351

Committee Clerk Signature



Minutes:

### COMMITTEE WORK ONE:

**Chairman Grande:** We will discuss HB 1294. This one has to do with bonding and a discussion of how much was in the bond fund and stuff and Rep. Kasper went up and checked on that. He did find out that it is being dealt with in another bill in the Senate so we are okay to just not deal with that. But this, as far as amendments go, were there any other amendments that needed to be brought forward. I have to remove language at the request of the commission. Does anyone else have that?

**Vice Chairman Randy Boehning:** Yes.

**Chairman Grande:** So the amendment would be to overstrike on Line 13, Page 1, at the request of the commissioner, does everyone see that. So moved by Rep. Dahl. 2<sup>nd</sup>?

**Rep. Nathe:** 2<sup>nd</sup>.

**Chairman Grande:** All those in favor? I. Consent. Do we have a Do Pass As Amended?

**Rep. Meier:** Motion for a Do Pass As Amended.

**Rep. Karls:** 2<sup>nd</sup>.

**Chairman Grande:** Discussion? Clerk will call the roll for a Do Pass As Amended?

**Clerk Erhardt:** Roll Call. Yes: 11. No: 0. Absent: 2. Carrier: Rep. Karls.



**FISCAL NOTE**  
**Requested by Legislative Council**  
01/13/2009

Bill/Resolution No.: HB 1294

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill updates wording relating to the timing of the transfer of excess regulatory trust funds to the general fund, clarifies language relating to the State Bonding Fund concerning coverage limits, premium calculations, bondholder renewal and allows bondholders to purchase additional coverage.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill will have no fiscal impact.

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.*

This bill will have no effect on revenues.

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.*

This bill will have no effect on expenditures.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

This bill will have no impact on appropriations.

<b>Name:</b>	Larry Martin	<b>Agency:</b>	Insurance Department
<b>Phone Number:</b>	328-2930	<b>Date Prepared:</b>	01/15/2009

98265.0101  
Title.0200

Adopted by the Government and Veterans  
Affairs Committee  
February 12, 2009

VR  
2/12/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1294

Page 1, line 13, remove "at the request of the commissioner"

Renumber accordingly

Date: 2/12/09  
 Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1294**

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken Passed As Amended

Motion Made By Rep. Meier Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth			Rep. Winrich		
Rep. Karls	✓		Rep. Wolf		
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Karls

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

**REPORT OF STANDING COMMITTEE**

**HB 1294: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1294 was placed  
on the Sixth order on the calendar.

Page 1, line 13, remove "at the request of the commissioner"

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1294

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1294

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9921

Committee Clerk Signature

*Erin Lebeck*

Minutes:

Jeff Bitz, Administrator, State Bonding Fund, North Dakota Insurance Department:

Written testimony in favor of 1294.

Chairman Klein: For my clarification you're suggesting in addition to the bond that withholding from the state if one of these entities decides to buy additional coverage that's fine?

Jeff: That's correct. Right now we limit coverage based upon our ability to pay. And right now that limit is roughly the two million we have in surplus we have to pay claims on current bases.

There are many counties out there, cities that because of the amount of funding that they actually handle the city of Fargo the city of Bismarck, Burleigh county there funding could be upwards of forty or fifty million dollars. If we limit them to what are ability to pay is a lot of time they need more coverage.

Chairman Klein: Doesn't that make you nervous that some entities might be out there that don't have enough funds?

Jeff: We really can't address it. Each individual bond holder must make based upon their quality control, there separation of responsibilities and duties to recording transactions.

Senator Potter: What is the process you see for collecting premiums?

Jeff: We are in a position now to go out and request premiums from those bond holders currently bonded based on the number of employees.

Senator Andrist: Give us an example of who pays the two dollars and fifty cents. Who pays that?

Jeff: It would be charged against the bond holder which would be the county and or the township or the city.

Chairman Klein: We know by law we have to maintain two million dollars in this fund so you will have to collect. And you have created provisions for that in law; it's just a matter of when that time will start. Depending on what the word is from your investment group.

Jeff: When we put this together, there was an anticipation that we were going to drop below that two million surplus dollar. We've change from a per person bond to a blanket bond. The wording within the code was not consistent with that and we basically wanted to bring everything together saying the blanket bond covers all employees. Therefore to determine a minimum premium there has to be a minimum in fact for each bond for each employee.

Continued discussion on how the bond fund will work.

Barb Knutson, Treasurer and south Central District director of the North Dakota Township Officers Association: Written testimony.

Senator Andrist: Your objection is real but it's not more than four or five people in a typical township that would be employees, so the twelve dollars and fifty cents it is really that much of a hardship?

Barb: We believe that collectively it is because it is across the state and our monies are collected to do maintenance and that type of thing and if we have to keep coming up with twelve dollars and fifty cents it makes a difference in our budget.

Senator Andrist: The townships are the most efficient government we got. They just go out and do things. But at the same time I am having a hard time seeing this as a hardship. And the bonding fund has been a nice little security blanket that hasn't cost anybody anything since 1952.

Barb: That's true.

Continued discussion continued and questions answered.

Senator Andrist: Jeff can you give us an idea on how much it will cost you to collect the \$2.50?

Jeff: There is going to be a cost to mail out the invoices, do the processing and postage and paper cost.

Senator Andrist: Primarily postage and paper cost.

Chairman Klein: Closed the hearing.



## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1294

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10724

Committee Clerk Signature



Minutes:

Chairman Klein: 1294 is about the employee bonding issue and how much. I believe the townships were in to testify. We are asking two dollars and fifty cents a head.

Senator Potter: Whether its, personally the township shouldn't be paying premiums on this from my perspective. It's just going to cost the state money and the townships money. It's more paper work and we haven't been doing this since the fifties. We shouldn't be going back and recreating this process. The problem is that the bonding fund has suffered losses in the market. I think it's a simple matter of restoring the fund to the level where we don't have to take those. I have one more point to make in section five this is all new language allowing the political subdivisions to purchase private insurance as well. In addition to the state bond and it makes sense for subdivisions like the large ones that have a need for a high bond but when a state agency can do that, I think we have to eliminate those words from this. I propose striking state agency from that.

Chairman Klein: I was reminded then just thinking this through there is a appropriation placed on hold again. This would set up the method it we had to collect if we had to. Senator Potter do you want to hold this?

Senator Potter: We could remove the words state agency.

Senator Potter: Motion to remove state agency.

Senator Behm: I second that.

Discussion of concerns continued. Melissa Hauer was asked what she thought about the change. Her reply was that she didn't think it gave them authority or doesn't take it away. This bill doesn't interfere with that.

Senator Horne: You don't see it as a problem?

Melissa: It doesn't prohibit them from getting more insurance.

Senator Potter: If they already have the authority why do you need the language if they already do this?

Melissa: Some do have the authority to purchase more and some don't.

Continued discussion.

Row call was taken on the amendment. It failed 3-4.

Senator Wanzek: Motioned a do pass on the engrossed bill.

Senator Nodland: Seconded.

Row call vote was taken it passed 6-1.

Senator Nodland to carry the bill.

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Date: 3/11/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1294

Senate

Committee

**Industry, Business and Labor**

Check here for Conference Committee

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

Action Taken  Pass  Do Not Pass  Amended

Motion Made By Senator Potter Seconded By Senator Behm

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman		✓	Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair		✓	Senator Robert M. Horne	✓	
Senator John M. Andrist		✓	Senator Tracy Potter	✓	
Senator George Nodland		✓			

Total (Yes) 3 No 4

Absent 0

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

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

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Date: 3/11/09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1294

Senate

Committee

**Industry, Business and Labor**

Check here for Conference Committee

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

Action Taken  **Pass**  **Do Not Pass**  **Amended**

Motion Made By Senator Wanzek Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter		✓
Senator George Nodland	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Nodland

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

**REPORT OF STANDING COMMITTEE**

HB 1294, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1294 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1294

*Attachment #1*

**HOUSE BILL NO. 1294**

**Presented by:** Larry Martin  
Account/Budget Specialist  
North Dakota Insurance Department

**Before:** House Government and Veterans Affairs Committee  
Representative Bette Grande, Chairman

**Date:** January 29, 2009

**TESTIMONY**

Good morning, Madam Chairman and members of the committee. My name is Larry Martin and I am the Account/Budget Specialist of the North Dakota Insurance Department. I appear before you today to testify in support of Section 1 of House Bill No. 1294.

The Insurance Commissioner is requesting the changes detailed in Section 1 of this bill in response to a recommendation from the State Auditor's office. The current wording in this statute requires that at the end of the fiscal year, after all fiscal year expenses have been paid, any cash balance remaining in the insurance regulatory trust fund that exceeds \$1 million be transferred to the general fund. The fiscal year end is June 30; however, due to the nature of the state's year end closing process, the final fiscal year expenses are not recorded until September. This amendment updates the statute to be consistent with the state's accounting practices.

The statute also states that the State Treasurer is responsible for making the transfer from the insurance regulatory trust fund to the general fund. This amendment would transfer that responsibility to the Office of Management and Budget. Currently, the Insurance Department calculates the amount of the transfer and requests the transfer to be made. The transfer must be reported in the Comprehensive Annual Financial Report

(CAFR) prepared by the Office of Management and Budget so it is appropriate that they are the ones to make the transfer.

Funding for the insurance regulatory trust fund comes from fees, penalties and fines collected by the Insurance Commissioner. The fund is used to defray administrative and regulatory expenses of the Insurance Department appropriated by the Legislature.

In conclusion, Section 1 of this bill is to update language in the statute to be consistent with current practices. I would be happy to try to answer any questions the committee members may have.

Thank you for your time. I would like to introduce Jeff Bitz, Administrator of the State Bonding Fund for the North Dakota Insurance Department, who will testify on other sections of this bill.



**ND INSURANCE DEPARTMENT  
STATE BONDING FUND BALANCE HISTORY  
FOR THE FISCAL YEAR ENDING JUNE 30TH**

<u>YEAR</u>	<u>RESERVE BALANCE</u>	<u>MINIMUM REQUIREMENT</u>	<u>VARIANCE FAV(UNFAV)</u>
2009 (EST)	\$ 1,900,000	\$ 2,000,000	\$ (100,000)
2008	\$ 2,511,902	\$ 2,000,000	\$ 511,902
2007	\$ 2,302,806	\$ 2,000,000	\$ 302,806
2006	\$ 2,693,009	\$ 2,000,000	\$ 693,009
2005	\$ 2,599,756	\$ 2,000,000	\$ 599,756
2004	\$ 3,752,803	\$ 2,000,000	\$ 1,752,803
2003	\$ 5,134,541	\$ 2,500,000	\$ 2,634,541
2002	\$ 4,801,704	\$ 2,500,000	\$ 2,301,704
2001	\$ 4,903,455	\$ 2,500,000	\$ 2,403,455
2000	\$ 4,926,544	\$ 2,500,000	\$ 2,426,544
1999	\$ 4,589,688	\$ 2,500,000	\$ 2,089,688
1998	\$ 4,388,079	\$ 2,500,000	\$ 1,888,079
1997	\$ 3,976,761	\$ 2,500,000	\$ 1,476,761
1996	\$ 3,777,630	\$ 2,500,000	\$ 1,277,630

The State Bonding fund provides fidelity bond coverage to the State of North Dakota and its political subdivisions, including counties, townships, cities, park districts, and school districts. The bond issued by the fund is a fidelity blanket bond, which covers public officials and employees for theft of money and property by public officials and employees.

The State Bonding fund serves 2,956 bondholders with a combined insured value of approximately \$527 million. Established by the legislature in 1919, no premium has been charged for this coverage since 1953. Collection of premiums resumes if the fund reserve is depleted below \$2 million and continues until the reserve reaches \$3 million.

Currently, the fund has 4 open claims (see attached page ) totaling \$141,000. Since 1999 the fund has received 57 claims and is attempting collection on 24 judgments, with a balance owed to the fund of \$1,379,140. An amount is paid to the bond holder by the fund after an audit has been and the amount is determined by the court. The fund continues to renew judgments and make collection attempts from the debtor. The Insurance Department is seeking authority to collect amounts owed to the fund by off setting income tax refunds in HB1199.

## State Bonding Fund Claims 1999-2009

Bond #	Obligee	Claim #	Orig Claim	Date Rcvd	Status	Entity Type
	City of Sibley	31	\$1,500.00	11/12/99	Subrogation	City
	Mandan Park District	36	\$15,000.00	12/06/99	Close	City
1199	City of Glenburn	37	\$3,303.60	02/22/00	Close	City
1616	Stark County	38	\$5,000.00	05/25/00	Close	County
1497	Barnes County Water Resources	39	\$16,000.00	08/16/00	Subrogation	County
2911	City of Selfridge	40	\$15,219.37	10/27/00	Close	City
3461	Dunseith School District	41	\$4,626.02	04/24/01	Close	School District
2275	Richland County Soil Conservation District	42	\$2,320.44	05/25/01	Close	County
2570	North Dakota State Fair	43	\$6,451.21	09/24/01	Close	State
1367	Sargent County	44	\$687.26	11/20/01	Close	County
3816	Billings County Game & Fish Vendor	45	\$684.00	02/07/02	Close	County Game & Fish
2560	Williams County Game & Fish Vendor	46	\$1,649.00	02/14/02	Close	County Game & Fish
1213	City of Cando	47	\$12,381.00	03/11/02	Close	City
2796	City of Mapleton	48	\$764.62	04/11/02	Close	City
1728	Fargo Park District	49	\$226,000.00	04/25/02	Subrogation	City
2537	City of Devils Lake	50	\$6,550.00	05/14/02	Close	City
1791	Sherwood Public School	51	\$34,368.31	10/16/02	Close	School District
2568	City of Mandan	52	\$48,092.00	11/13/02	Subrogation	City
2062	State Game & Fish Department	53	\$1,730.00	11/15/02	Close	State
2583	City of Max	54	\$67,279.47	01/28/03	Close	City
3661	City of Dwight	55	\$7,500.00	01/29/03	Close	City
1357	Emergency Management	56	\$4,367.03	02/18/03	Close	State
1569	Ward County	57	\$5,000.00	04/23/03	Close	County
2619	North Dakota State University	58	\$2,000.00	07/21/03	Close	State
1404	Max School District #50	59	\$67,279.47	01/28/03	Close	School District
2249	Dunn County Soil Conservation District	60	\$2,630.47	11/19/03	Close	County
	Milnor Public School District #2	61	\$10,000.00	01/13/04	Close	School District
1937	Midkota School District #7	62	\$46,947.40	02/09/04	Subrogation	School District
1447	City of McHenry	63	\$47,956.70	01/15/04	Subrogation	City
2326	Bismarck Public School District #1	64	\$3,967.56	03/31/04	Close	School District
1790	Mt. Pleasant School District #4	65	\$13,515.57	04/23/04	Close	School District
3675	Gladstone Consolidated Fire District	66	\$10,000.00	07/14/04	Close	Fire District
2702	New England School District #9	67	\$25,000.00	11/02/04	Close	School District
1518	Sheyenne Valley Area Career Technology	68	\$3,444.54	12/03/04	Close	School District
1528	City of Lamoure	69	\$10,000.00	12/15/04	Subrogation	City
2238	Williams County Social Services	70	\$10,000.00	01/03/05	Close	County
2179	Benson County Housing Authority	71	\$80,000.00	01/20/05	Denied	County
2592	Renville County Game & Fish Vendor	72	\$413.00	02/09/05	Close	County Game & Fish
3033	City of Cogswell	73	\$27,240.00	02/15/05	Subrogation	City
3317	City of DesLacs	74	\$1,500.00	02/17/05	Close	City
2582	R & T Water Supply Association	75	\$273,964.63	08/18/05	Subrogation	City
2581	City of Ray	76	\$307,919.20	08/18/05	Close	City
2702	New England School District #9	77	\$4,000.00	09/29/05	Close	School District
2843	Red River Valley Fair Association	78	\$249,049.20	01/23/06	Close	County
3972	Walsh County	79	\$15,000.00	03/07/06	Withdrawn	County
1478	Wishek Public School District #19	80	\$63,447.00	04/17/06	Subrogation	School District
1631	City of Kenmare	81	\$20,000.00	06/29/06	Close	City
2628	City of Karlsruhe	82	\$5,079.36	08/01/06	Subrogation	City
1400	Steele County Water Resource	83	\$45,000.00	08/25/06	Close	County
3462	City of Carrington	84	\$1.00	10/31/06	Close	City
<b>3713</b>	<b>Minot Commission on Aging</b>	<b>85</b>	<b>\$78,000.00</b>	<b>12/15/06</b>	<b>Open</b>	<b>City</b>
	City of Tioga	86	\$525.00	03/21/07	Close	City
	Job Service of North Dakota	87	\$12,000.00	11/01/07	Subrogation	State
1546	Office of the Attorney General	88	\$1.00	07/18/08	Close	State
<b>1564</b>	<b>City of Tioga</b>	<b>89</b>	<b>\$10,000.00</b>	<b>10/10/08</b>	<b>Open</b>	<b>City</b>
<b>1404</b>	<b>Max School District #50</b>	<b>90</b>	<b>\$48,000.00</b>	<b>10/15/08</b>	<b>Open</b>	<b>School District</b>
<b>3679</b>	<b>New Public School District #8</b>	<b>91</b>	<b>\$5,000.00</b>	<b>12/12/08</b>	<b>Open</b>	<b>School District</b>

\*\*\*Closed indicates the restitution was paid or the judgment was never pursued.

Attachment  
#2

HOUSE BILL NO. 1294

**Presented by:** Jeff Bitz  
Administrator, State Bonding Fund  
North Dakota Insurance Department

**Before:** House Government and Veterans Affairs Committee  
Representative Bette Grande, Chairman

**Date:** January 29, 2009

TESTIMONY

Madam Chairman and members of the committee: My name is Jeff Bitz and I am the Administrator of the State Bonding Fund. I appear before you today in support of House Bill No. 1294.

The State Bonding Fund provides fidelity bond coverage to the State of North Dakota and its political subdivisions, including counties, townships, cities, park districts, and school districts. The bond issued by the Fund is a fidelity blanket bond, which covers public officials and employees for theft of money and property by public officials and employees.

Established by the Legislature in 1919, no premium has been charged for this coverage since 1953. Collection of premiums resumes if the Fund reserve is depleted below \$2 million and continues until the reserve fund reaches \$3 million.

The State Bonding Fund serves 2,956 bondholders with a combined insured value of approximately \$527 million.

Section 26.1-21-07: The proposed amendment gives the Commissioner authority to limit the amount of a bond based on the reserves necessary to pay a judgment and for all other necessary costs or expenses to carry out the purpose of the Fund.

Section 26.1-21-09: This proposed amendment has the bondholders pay premium directly to the Fund rather than the State Treasurer and the premium collected is to be kept in the Fund to pay claims and all other necessary costs or expenses to carry out the purpose of the Fund. This language allows the Fund to operate in accordance with how this business process is handled today. In addition, it set the minimum premium for each bond to be \$2.50 per public employee per year. This change is necessary since the Fund no longer issues a bond per employee, but rather a blanket bond that covers all employees of a state entity and political subdivision.

Section 26.1-21-10: This proposed amendment clarifies that each state entity and political subdivision shall apply to be bonded in the Fund every two years or when a change in coverage is requested, whichever occurs first. In its current form there appears to be confusion as to whether an entity needs to reapply every two years if no change in coverage is requested. This amendment takes away the ambiguity.

Section 26.1-21-24: This proposed new section says that nothing within this chapter prohibits an entity from purchasing additional coverage from a duly authorized surety company above what the Commissioner allows under Section 26.1-21-07 and that evidence of the additional coverage be filed with the Commissioner.

I respectfully request a "do pass" recommendation from this committee on this bill.

I would be happy to try and answer any questions the committee members may have.

Thank you.

## HOUSE BILL NO. 1294

**Presented by:** Jeff Bitz  
Administrator, State Bonding Fund  
North Dakota Insurance Department

**Before:** Senate Industry, Business and Labor Committee  
Senator Jerry Klein, Chairman

**Date:** March 2, 2009

### TESTIMONY

Mr. Chairman and members of the committee: My name is Jeff Bitz and I am the Administrator of the State Bonding Fund. I appear before you today in support of House Bill No. 1294.

The Insurance Commissioner is requesting the changes detailed in Section 1 of this bill in response to a recommendation from the State Auditor's office. The current wording in this statute requires that at the end of the fiscal year, after all fiscal year expenses have been paid, any cash balance remaining in the insurance regulatory trust fund that exceeds \$1 million be transferred to the general fund. The fiscal year end is June 30; however, due to the nature of the state's year end closing process, the final fiscal year expenses are not recorded until September. This amendment updates the statute to be consistent with the state's accounting practices.

The current statute also states that the State Treasurer is responsible for making the transfer from the insurance regulatory trust fund to the general fund. This amendment would transfer that responsibility to the Office of Management and Budget. Currently, the Insurance Department calculates the amount of the transfer and requests OMB to transfer the funds. The transfer must be reported in the annual Comprehensive Annual Financial Report (CAFR) prepared by OMB so it is appropriate that OMB make the transfer.

Funding for the insurance regulatory trust fund comes from fees, penalties and fines collected by the Insurance Commissioner. The fund is used to defray administrative and regulatory expenses of the Insurance Department as appropriated by the Legislature.

Section 1 of this bill is to update language in the statute to be consistent with current practices.

The State Bonding Fund provides fidelity bond coverage to the State of North Dakota and its political subdivisions, including counties, townships, cities, park districts, and school districts. The bond issued by the Fund is a fidelity blanket bond, which covers public officials and employees for theft of money and property by public officials and employees.

Established by the Legislature in 1919, no premium has been charged for this coverage since 1953. Collection of premiums resumes if the Fund reserve is depleted below \$2 million and continues until the reserve fund reaches \$3 million.

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Section 26.1-21-07: The proposed amendment gives the Commissioner authority to limit the amount of a bond based on the reserves necessary to pay a judgment and for all other necessary costs or expenses to carry out the purpose of the Fund.

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each bond to be \$2.50 per public employee per year. This change is necessary since the Fund no longer issues a bond per employee, but rather a blanket bond that covers all employees of a state entity and political subdivision.

Section 26.1-21-10: This proposed amendment clarifies that each state entity and political subdivision shall apply to be bonded in the Fund every two years or when a change in coverage is requested, whichever occurs first. In its current form there appears to be confusion as to whether an entity needs to reapply every two years if no change in coverage is requested. This amendment takes away the ambiguity.

Section 26.1-21-24: This proposed new section says that nothing within this chapter prohibits an entity from purchasing additional coverage from a duly authorized surety company above what the Commissioner allows under Section 26.1-21-07 and that evidence of the additional coverage be filed with the Commissioner.

I respectfully request a "do pass" recommendation from this committee on this bill.

I would be happy to try and answer any questions the committee members may have.

Thank you.

## Testimony to the Senate Industry, Business and Labor Committee

Prepared by the ND Township Officers Association,

Mr. Chairman and Members of the Senate Industry, Business and Labor Committee:

My Name is Barb Knutson and I serve as Treasurer and South Central District Director of the North Dakota Township Officers Association. Our association serves 1140 North Dakota townships and just fewer than 6000 locally elected township officers.

I have come here today to oppose the passage of HB1294 in its present form. Our association feels that the proposed wording change suggested on page 2, line 11 of HB1294, "**The minimum premium for each bond must be two dollars and fifty cents per public employee per year**" will unfairly burden townships and other government entities whose officers and employees receive small amounts of yearly compensation. We believe that a fair bonding assessment levied upon each agency and political subdivision should reflect the amount of coverage afforded instead of the number of employees.

The risk for the state bond fund when covering large school districts, cities and counties that handle millions of dollars is greater than the exposure for townships which typically have an annual budget of approximately \$15,000 - \$25,000. Township officers are limited by North Dakota statute to a salary of \$20/day, not to exceed \$1000/yr. I estimate that most township officers in North Dakota receive an average annual salary of less than \$100/yr. In Havelock Township, Hettinger County, the yearly wage paid to the three township supervisors has been \$40/year for the last 20 years. It is unfair for a township like Havelock to pay \$2.50 for each of those employees, when the average yearly wage paid by larger cities and counties is much higher than \$40/yr.

I would point out that in existing century code under existing NDCC 26.1-21-01 in #1 Blanket Bond means a bond that covers collectively all public employees and public officials without the necessity of scheduling names and positions as part of the bond and a bond whereby new public employees and new public officials entering employment or office during the period of the bond are automatically included without notice to the fund. The proposed wording change "**two dollars and fifty cents per public employee per year**" will also unduly increase the amount of paperwork and record keeping which the public entities will have to submit to the Insurance Commissioners office.



We believe that it was the original intent of this legislation to offer blanket bonds. The wording in line 11 on page 2 of HB1294, "**The minimum premium for each bond must be two dollars and fifty cents per public employee per year**" changes the intent and we do oppose the proposed change.

I ask that this committee strike out the three words "**public employee per**" as found on line 11, page 2 of HB1294. And, we respectfully ask that language be inserted in this bill that would direct that bonding premiums be determined according to a percentage of the coverage afforded by the bond and that the percentage be applied equitably across all state agencies and government entities.

Mr. Chairman, I will answer questions relating to my testimony.