

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1484

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1484

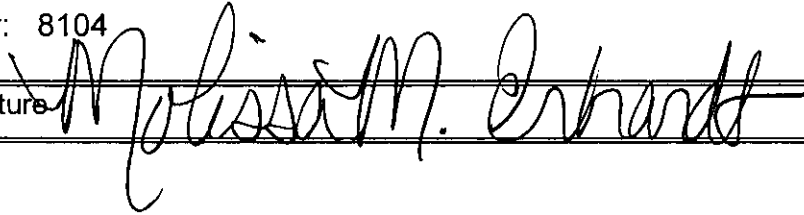
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/29/2009

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Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on HB 1484.

**Lance Gaebe, Senior Staff, Governor Hoeven:** By virtue of the action of the appropriations committee and that that the house took last week, when they

pulled some policy items out of the appropriations bills, you have before you HB 1484. It is at the request of our leadership and the Governor. The reason I am

appearing is because the leaders asked that the Governor's office introduce

these bills using our expert policy language that directed the appropriations bills.

This bill is at peace with not raising the fee on hazardous chemicals, just simply

raise the cap on fees for folks that have hazardous chemicals on their sites. They

would need to report what those chemicals are and what the toxicity level is and

so forth, to State Land Program and State Hazardous Chemical program as

Legislature has established. Currently, the fee is \$25, per chemical, capped at

\$150 per facility. The other budgets inclusive of this section will raise that per

facility cap from \$150 to \$475 per facility. It will raise an additional \$70,000, half

will stay with the State to help manage the program, and the other \$35,000 would be distributed to the local subdivisions to have awareness of those hazardous chemicals within their jurisdictions. The amount arrived at is really going to be used to cover actual administrative costs of having the staff to do this. As far as the details of what the Hazardous Chemical program does and how it works Greg Wilz, the director of the Department of Homeland Security for the State will be speaking directly after me and can answer those questions better than I can. Any questions you may have for me?

**Chairman Grande:** Any questions from the committee?

**Representative Karls:** Would you give us again the figures on the dollar amount?

**Lance Gaebe:** The dollars raised by this raise in raise in cap would be an additional \$70,000. Half that amount will stay at the State for the cost of collecting the information and the other \$35,000 will be dispersed to political subdivisions for education management.

**Rep. Boehning:** What are we collecting currently?

**Lance Gaebe:** I don't know.

**Rep. Kasper:** Why do we need it? What does it do? Is Mr. Wilz better suited to answer the question?

**Lance Gaebe:** Yes. Basically, any folks who have any hazardous chemicals. Any type of fertilizer facilities, pesticide facilities, or industrial plants who need to have a list of those hazardous chemicals and register those chemicals with the State in the HazChem program so that if we have an instant fire, a spill, we are aware of what chemicals are stored in that facility and that's in the database that is monitored by the State and shared with the political subdivisions.

**Rep. Kasper:** What is the problem now with how it's been working? Why do we need the extra increase in the fees?

**Lance Gaebe:** There is not a problem other than the fact that the cap that was in place in State Law is not covering the cost of actually operating the program.

**Rep. Meier:** When was the cap last put into place?

**Lance Gaebe:** I don't know.

**Rep. Amerman:** The grants that the political subdivision can apply for is there a cap for a county or can one county get all \$35,000 or how does that work?

**Lance Gaebe:** I don't know that answer, but Mr. Wilz does?

**Chairman Grande:** Emails that our being handed out on groups that plan on using this money, is this money for them?

**Lance Gaebe:** If you are getting emails, there is a separate bill that addresses the same section of law raising the cap in a similar fashion but it activates it to a higher level and it includes the grants to the Fire Association. I don't know the

bill number but it's under the same section of law and raises more money than this current bill does.

**Chairman Grande:** Committee that was heard in political subdivisions already.

**Lance Gaebe:** The Governor's budget does include money for the fire department training grants and the Fireman's Association. The bill for the Insurance Commissioner's office includes \$500,000 for Fire Association Training grants. Mainly that budget came out after that bill was introduced by the Interim Committee. The Interim Committee bill number that raises this cap is HB 1047.

**Chairman Grande:** Any other questions from the committee?

**Greg Wilz: Deputy Director, Department of Emergency Services and Homeland Security for the State of ND:** See Testimony, Attachment #1.

The increase is still reasonable when it is compared to other states. The bottom line is we believe that it is right to continue to administer this program using special funds versus general funds. We also believe it's right to the industry that has created at some level the additional risk out there with the hazardous chemicals that they fund the administration of the program and the small amount of money that goes back to the local emergency planning commissions. I will do my best to answer any questions you may have.

**Chairman Grande:** The fee that we are dealing with here, is that paid by the person selling the chemicals, buying the chemicals, storing the chemicals, who is paying this?

**Greg Wilz:** It is kind of a combination of all of the above. The base answer to the question is the storage facility? If they are storing chemicals, they are paying the fees. There are some exclusions in the federal law. For example, chemical in transport, if you have someone who is moving it through the State of ND, they are not paying the fees. The pipelines are not subject to fees. Tesoro pays fees, but they have storage right there. But anything that is coming in and out of their pipeline, that is not fee based. Money of the wholesalers are agriculture chemical or other kinds of chemical kinds of dealers. So they are bringing chemical in and they are delivering it out, it's really the storage facility itself that is the target of the fee. Based upon the federal law, local farms are exempt, because they do carry threshold quantities of anhydrous ammonia and others, they do not have to pay the fee. The actual dealers are the ones we are targeting.

**Chairman Grande:** But we raise this fee on the storage unit, the farmer is going to pay for that. It is going to be a pass down cost, correct?

**Greg Wilz:** At some level I believe that is correct, but when you look at the base numbers, we are not talking about a huge amount here. Currently, they are

paying a \$150 a year maximum. What we are talking about is raising it to \$470, so that is a \$300 per year, per site. When you talk about the tens of thousands of pounds of chemicals that potentially move through a site, that pass down cost will be extremely small. When you talk about the specialized company that might be dealing in exotics that supply like the science laboratories at the schools and colleges, depending on the volume, which I am not too sure of, there could be a small increase.

**Rep. Meier:** Do you have information on how much you have actually collected in the last biennium for fees?

**Greg Wilz:** Yes. \$125,000 would be the round number. The HB 1047, as was mentioned, this particular bill essentially created revenue of \$160,000. I know that we were asked on the budget side of the house to do a fiscal note on each of the programs to compare them. Essentially, here is the bottom line. Over the last, three years we have been running this program at a deficit in special funds from between \$14,000 and \$17,000. Because the law requires us to provide back 50% of what we collect to local jurisdictions, we have to actually get double the fee to get what we need to administer the program. Does that answer your question?

**Rep. Boehning:** You are saying that you have 3,033 storage facilities. What do you include in a storage facility? Hardware stores, Walmart's, Kmart's, Hardware Hanks, and are there any hardware stores included in this at all.

**Greg Wilz:** It depends, is the right answer. It depends on the threshold. If they have chemical that is extremely hazardous, the threshold on that chemical could be one pound. If they have one pound they are paying a fee. On some chemicals it is upwards of ten thousand pounds. It also depends on the structure or form of the chemical. If it is dust, like one micron and less, like (?) and stuff like that, it is a very small amount. If it is a liquid or if it is a solid, it is a whole bunch. But I brought a listing of the 3,000 facilities. Going to give you an example of the things that are on it: Alliance Ag Cooperative, Vining Oil, Central Power, ND Telephone, Summers Manufacturing, Emerado Hess, Medora Field Facility, and oil companies are big on this list, based on the chemicals used in the oil industry. Quite frankly, your mom and pop hardware stores are not included in this program. Not unless they are on the side, dealing in large quantities of chemicals.

**Rep. Froseth:** In the fall, we use a lot of anhydrous ammonia in our area, so the manufacturing plant would either have to use rail or truck? The trucking companies or rail companies do not have to pay this fee, correct?



**Greg Wilz:** That is correct the folks that are dealing with the transport only are exempt from the fee. It is the **folks** that store it.

**Rep. Froseth:** So there would be three points that would pay the fee?

**Greg Wilz:** Yes. Again, it's a fee that helps identify where the chemicals are, the quantities that are there, so that we can comply with the federal government to let the people know. Not only the people but the responders know of what is in their back yard, so if something happens they don't rush in and find themselves in a situation they were not prepared for.

**Rep. Winrich:** Mr. Wilz did I understand you to say that the monies that flows back to the counties is based on the money collected from each county, that it is proportional to what came in from that county?

**Greg Wilz:** Correct. If we collect \$10,000 from Stark County and at the end of year, \$5,000 goes back to Stark County to the local emergency planning commission, and it will be distributed based upon the need for training equipment exercised at the hazardous chemical level.

**Rep. Nathe:** These fees are vetted through SERC, which includes private sector businesses. Has SERC talked to any other private business owners? Did they survey anybody?

**Greg Wilz:** I believe that they have, based upon the feedback that I have seen at the SERC. We had actually been talking about this for two years, because we

know that we have been running the program in the red. We took an attempt at it in the last session in our budget and it didn't make it through. That's because at the time, raising fees would have been not really looked at because of the surplus. Well, we find ourselves two years later, same situation but we are still running this program at a deficit and have to subsidize it with general funds. The private partner industry wraps on the SERC. Originally said that is not going to go over very well because you are doubling fees. We have looked at many models. But the bottom line is that they know exactly why and the why is, this money goes out to train fire, and ambulance people on hazardous chemical response. They will not have an issue. I am not going to tell you that you are not going to find someone who is upset about raising the fees. But the majority will understand the reason why we need to do it.

**Rep. Conklin:** No problem with the fees being raised. But I think you are taxing the wrong people. You are taxing not the ones that want it, but the ones who want to know this information they should be the ones who are taxed rather than the individual companies that are providing the services. Why do you think they should be taxed that way?

**Greg Wilz:** I believe it is right to tax those who have created the advanced risk associated with those chemicals. Certainly there is civil liabilities and all those things come into play if we have a large chemical spill in the State of ND, and the

company is found at fault they will probably be sued. The program is really an awareness thing and the companies that put the stuff there are the ones, in our opinion, should continue to pay the fees to create the awareness that they are there.

**Rep. Conklin:** But the people are the ones that want the awareness. It's not the companies that are selling it. It is the people that want it so they should be the ones that pay for it.

**Greg Wilz:** They may or may not want the information. But the fact of the matter is if you have a very dangerous chemical and you are the one who is putting it there and so that is the thought behind it. We may agree to disagree. But I believe it is the right place.

**Rep. Boehning:** What is your current budget in the Department of Emergency Services and what is your proposed increase for the 911 budget?

**Greg Wilz:** The entire budget?

**Rep. Boehning:** Because it operates under the Department of Emergency Services, can we get your number on that and what your increase is going to be for the next biennium?

**Greg Wilz:** I can get that.

**Rep. Kasper:** You are doubling the fees, are you required by federal law to share 50% back to the counties of whatever the fees you collect? Or do you have any ability to change that percentage?

**Greg Wilz:** I am required by NDCC to return those monies back to the counties. There is no federal requirement. The federal requirement is that each state operate and manage the program. It doesn't suggest fees, it doesn't prescribe a pass-back to local counties. This is how ND in 1992 choose to implement the program. If I were a large chemical company in the State of ND, I would only have to pay \$25. That is how the current program is.

**Rep. Kasper:** Right now, the local counties have the dollars to train the fire fighters and the responders? What you are going to do is double the amount you are going to give them? Have they not been doing an adequate amount with the dollars they have been getting? Why not change our percentage that we give to the counties so we don't have to increase our fee so much?

**Greg Wilz:** They have been doing a fairly good job in the counties training their folks but not enough. Training at the local level is funded through many funding streams. Homeland Security dollars is part of the solution, local tax dollars, FEMA grants for fire training and equipment, 1047 originally started out as part of the solution, and NAFTA. The national standard for firefighter certification has changed and it now requires firefighters to meet certification levels at the

operational level versus the awareness level. We did some quick numbers on that, it went from an eight hour course to a three day course. There are 7,000 firemen in the State of ND that need that training. The requirements are changing as well. The LAPC is only a small piece of what they get locally. Yes they will get a boost, but that boost will be consumed by the additional training and the increased standards of local responders.

**Rep. Froseth:** How many of these 3,033 storage facilities have reached this cap of \$150?

**Greg Wilz:** I do have that, but not with me. I can tell you this because it is public record. Tesoro Oil Company is the largest chemical storage facility we have in the State and currently they are recording that they store a 117 chemicals that meet the threshold. Have 10 pages here and roughly 30 companies per page so approximately 300 facilities, would be impacted by the cap level that is in the bill. So 300 of the largest facilities in the State would be impacted.

**Chairman Grande:** For Tesoro, 117 chemicals hit the cap, so 117 times they have to pay the \$125?

**Greg Wilz:** No, they would pay on the first 19 chemicals of those 117. They would pay \$25 times 19 chemicals of the 117 that they sustain on site.

**Rep. Boehning:** Does Tesoro work with the local fire department with the HazMat and let them know all the chemicals that are out there? If they do have a

fire does the Fire Chief know where to go? Do they have a HazMat book out there and everything in relationship to that as well?

**Greg Wilz:** Tesoro is a model company. They have their own HazMat team, they have a fire department, they train with the local responders in the community, and they are an open book. A member of Tesoro sits on the SERC, because they are the largest in the State. They do a great job. They are a model for the industry in the business.

**Chairman Grande:** Any other questions for the committee? Anyone in favor? Against?

**Gary Knutson, ND Agriculture Association:** Our membership is nearly 400 dealers, distributors, manufacturers, and individual service providers in the crop production industry. Obviously we are not in opposition to anything that represents safety and enhancing the safety of our products in storage around the State. A lot of questions that have been raised this morning and it's been a very interesting discussion, in terms of numbers of products in this cap and so on. We feel the fee for an individual operator who probably handles three or four hazardous chemicals might be a bit of an excessive increase but again I ask for your discretion. We do have a concern in the other bill it did direct one-third of the monies to go direct to the Fire Fighters Association. We would like to have

the local fire departments to be equipped and trained, they are the responders that we have a concern with. We would like to see them adequately prepared.

Any questions?

**Rep. Winrich:** Someone who has only three or four chemicals, would not pay an increased fee under this bill? Only if they have more than six?

**Gary Knutson:** That is correct. That other bill HB 1047, did go with individual product increases.

**Chairman Grande:** Anyone else wishing to speak against? Neutral?

**Steve Strege, ND Grain Growers Association:** I did not come here to testify on this bill, after listening to what was said, I just wanted to make a couple points.

The other bill that was discussed, HB 1047, that has a Fiscal Note on it of \$230,000 raising fees. It gets most of that by raising it's fees for chemical from \$25 to \$52. Then one-third of the money would go to the Fire Fighters Association.

**Chairman Grande:** Political Subcommittee will keep us informed on how they are handling that.

**Steve Strege:** Mr. Gaebe talked about \$500,000 in the insurance commissioners budget goes for the Fire Fighters. It seems to me that we should base this on volume. That is my main point. One company has 178 chemicals

and another only has a few. There should be some kind of volume break down.

Consider that?

**Chairman Grande:** Any questions for Mr. Strege? Anyone else to speak to 1484? Closing the hearing on 1484.



## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One HB 1484

House Government and Veterans Affairs Committee

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Hearing Date: 01/29/2009

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Committee Clerk Signature

*Melissa M. Erhardt*

Minutes:

### COMMITTEE WORK ONE:

**Chairman Grande:** We are going to take up HB 1484.

**Rep. Froseth:** Don't know if I can support this. I don't think it is out of line to charge \$25 for each chemical that is handled. But look at the fiscal note, they are going to take in \$70,000 for one biennium and two more FTE's and administer the program with training and materials related to the added chemicals of the program. If they are only going to take in \$70,000 in income and hire two more FTE's (too much paper shuffling) we have seen this time and time again. Every time there is a dollar amount in increase there is one or two more FTE's required to administer and I don't think that should be necessary.

**Chairman Grande:** Is that a motion?

**Rep. Froseth:** No.

**Rep. Dahl:** Not that this is directly related to federal law but there are federal statutes that require some of these things and they have been running a deficit

and I don't think that \$25 per chemical up to nineteen chemicals, when some of these chemicals carry 117 chemicals, is too much.

**Chairman Grande:** I just found it interesting that formula as to how they were doing this. If you had a small company that might manage to have six different chemicals and they hit the max, you have a big company that might not, think it is disproportionate the way they are doing it. I don't think this is the right mechanism at all.

**Rep. Karls:** I just happened to visit with the lady who is the executive director of the Fire Fighter's Association awhile back and they are worried because of the accreditation things that were mentioned coming down from up above. She said they don't know how they are going to pay for it. This may be one of the mechanisms.

**Chairman Grande:** That mechanism is actually in HB 1047. We don't have the Fire Fighter's side of that. That is what Mr. Strege was referring to was the political subdivisions bill has that mechanism in it.

**Vice Chairman Randy Boehning:** Just discussing this, think it's in political pros, that bill 1047, is basically a similar bill, currently they are charging a \$25 fee and they are raising the bill on the same exact chemical to \$52 per chemical, they are changing theirs in the other section from \$150 to \$416 so actually they have two bills out there doing the same thing. If we pass both of these bills they are going

to have a lot of money. The fiscal note on that bill is \$230,000 for the political subdivisions on 1047 and this one is \$70,000. Basically it is the same exact chemicals, codes, and references in law and everything.

**Chairman Grande:** Someone was mentioning that there is a Fire Fighter's fund and there is training money. That is what you are paying your fire insurance dollars for. There is a percentage of that that goes to the State Fund.

**Vice Chairman Randy Boehning:** In here, in that Fiscal Note HB 1047, the revenues would be approximately \$80,000 per year for counties by agency and the ND Fire Association. They are going to be getting money underneath the other bill. I think they are going to be getting way too much between the two bills.

They are asking for too much between the two bills.

**Rep. Froseth:** Don't mind forwarding and voting for this bill but I don't like the idea for the two extra FTE's. I am sure the appropriations committee will deal with that when this arrives on their desk but still wish there was something we could do as a (cannot understand, paper shuffling).

**Chairman Grande:** We don't have control over that because the FTE's are not mentioned in the bill language.

**Rep. Winrich:** I am wondering why there are two bills. This one apparently comes from the Governor's office and is in line with his budget and so on. At least from the people who testified on it this morning it has the support of the

Governor. Is there some particular reason why the other bill was introduced or does it also have the support of some agency?

**Chairman Grande:** It came out of the interim public safety committee and that was one of the problems because political subs schedule has not heard this it has not been voted out. It just so happened that Rep. Wrangham happened to notice this bill assigned to us and pointed out that we already heard that same bill and found the differences. It was just by chance that we even ran across that.

**Rep. Winrich:** It also struck me that the two people who ostensibly raised objections to the bill in our committee, seemed to me to be really objecting to 1047, with the higher individual fee. I guess I am inclined to support this bill. I think it is a serious problem. But I remember corresponding with the Director of Emergency Services in 2001 about this very problem because it was getting some attention in the Wall Street Journal and some national publicity that I usually read about the problems of hazardous chemicals and particularly in agricultural areas where those chemicals are very prominent. Was happy to hear that we do have a database and local fire departments are informed and I think that we need to support it.

**Rep. Dahl:** Looking at this testimony, as Mr. Wilz said they did go through a process whereby they did consult some private sector businesses but through that process they did not receive objections.

**Rep. Karls:** This isn't one of those bills where they pulled the policy out of it?

**Chairman Grande:** It is one of those bills they pulled the policy out of.

**Rep. Karls:** Will that affect the appropriation?

**Chairman Grande:** That appropriation goes away.

**Rep. Karls:** What about 1047?

**Chairman Grande:** They are on their own.

**Rep. Kasper:** If their testimony is right and all they need is \$70,000 to administer this hazardous waste program. In there they are getting \$200,000 something doesn't add up.

**Chairman Grande:** Something does not add up with me either and that is what is kind of bothering me about the bill and he actually said that they only needed \$14,000 to \$17,000. This increase they are taking is \$70,000 plus and FTE's, if they are already administering it and able to absorb it out of their budget, why all of sudden do they need this extra money plus FTE's?

**Rep. Kasper:** How many FTE's are on that bill?

**Vice Chairman Randy Boehning:** They are not asking for any FTE's on that bill.

**Rep. Kasper:** Move for a Do Not Pass.

**Vice Chairman Randy Boehning:** 2<sup>nd</sup>.

**Chairman Grande:** Discussion.

**Rep. Amerman:** Rep. Boehning in that other bill that you read, there was \$80,000 to the counties, cities, and how was that all broke down?

**Vice Chairman Randy Boehning:** Revenues would be approximately \$80,000 each for the counties, the agency and the ND Fire Association.

**Rep. Amerman:** Does it give the breakdown, like how much the counties will get and then the State?

**Vice Chairman Randy Boehning:** Just reading this fiscal note, currently the agency and counties are receiving approximately \$62,500 per year, with an overall increase of \$35,000 per biennium. On fiscal note 1484 the counties would be getting \$35,000.

**Rep. Meier:** Do you recall what the deficit amount was?

**Chairman Grande:** \$14,000 to \$17,000 deficit.

**Rep. Meier:** If we amended the bill to put a different dollar amount in to maybe address that, we could certainly look at that.

**Chairman Grande:** We could.

**Rep. Winrich:** I think we are misinterpreting this fiscal note. The paragraph relating to the \$70,000 other funds, appropriations, the \$35,000 would be spent as additional grants to the counties and \$35,000 would be spent by the agency for increased cost of two FTE's that administer the program. I don't believe that is two new FTE's because there is no way that \$35,000 is going to pay for two

FTE's not even at minimum wage. That is the additional cost of administering the existing program because they will have more money to distribute. So the additional \$70,000 is what they are collecting from this increase in fees and it's going to be distributed to the counties.

**Vice Chairman Randy Boehning:** Along those lines then I don't see where they would have extra cost to collect his money because they still have the same 3,333 entities where they are collecting it from. All the data is there, all there doing is putting a bigger number in and sending a check out so there shouldn't be any more cost in administering the program. They are already administering the program.

**Rep. Dahl:** I would be willing to contact him today to get some of those answers and get some of those questions resolved. If we can sit on this until tomorrow.

**Chairman Grande:** We will not be taking it up tomorrow our schedule is full.

This does have a fiscal note on it, it has to be out by next Thursday.

We will place this bill on hold until further information comes in.

**Rep. Winrich:** For a formal motion, I would move to table the Do Not Pass motion.

**Chairman Grande:** All in favor of Tabling the motion? I. (consent)

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work Two HB 1484

House Government and Veterans Affairs Committee

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Hearing Date: 01/29/2009

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Committee Clerk Signature

*Melissa M. Erhardt*

Minutes:

### COMMITTEE WORK TWO:

**Chairman Grande:** We will go back to HB 1484. It was the hazardous chemical bill. Rep. Dahl.

**Rep. Dahl:** I had a chance to talk with Greg and he said that what he was trying to impress upon the committee how important this bill is to his agency. He said that when the auditor came through that because he had been grabbing money from generally funded dollars to his agency the auditor "dinged" him on that and said you can't do that. You can't keep grabbing money from other sources to apply to this program. He has one and two-thirds employees, there are no new FTE's as according to this bill. What he said was that this bill would allow the \$17,000 per year and that just covers actual program costs. The fees no longer cover it. That's what he testified to when said he was grabbing money from other funds to pay for this. This is a federal requirement, he has to do this. There are federal mandates out there, that he has to follow and he hasn't had an increase



to this plan, which is why the increase is so severe this time around. There hasn't been an increase since 1992. What other program haven't we increased since 1992, which is why it is rising. We have more storage sites since 1992, and there is more paperwork by the Federal Government to comply with, which is why he was asking for what he was asking for.

**Chairman Grande:** For clarification committee, in the past years, if you had a lot of chemicals you could have up to six and you could max out and you would only have to pay the \$150. This change will make it up to 19 chemicals and then you max out. I still have a question though, as to why we are raising this so high that

we are going to be bringing in \$70,000 when he is only having a deficit of somewhere between \$14,000 to \$17,000.

**Rep. Dahl:** To address that: \$35,000 of that goes to the counties for those training grants. \$35,000 for the biennium and that amounts to right around the \$17,000 he was talking about. He is short \$17,000 each year, he is drawing from other funds. Because we have it in statute that 50% goes to the counties, but one-half of the funds that he gets to keep that's why he had to raise it to that rate. But he made it very clear that this is of the utmost importance to his agency.

**Vice Chairman Randy Boehning:** The \$1750 that was in the other one, there is no \$1750 in this one.

**Chairman Grande:** Divide that number in half and that would be per year. He was talking annually for \$17,000 instead of biannually. That is why the numbers were not adding up there.

**Vice Chairman Randy Boehning:** That must be cheaply paid FTE's.

**Chairman Grande:** No those were not the FTE's, that will be for the training of the people that are watching over these facilities.

**Vice Chairman Randy Boehning:** The agencies. But he is still getting \$35,000 to.

**Chairman Grande:** That is why I just can't figure out what the other fund is, up to the \$70,000, it does not match.

**Rep. Dahl:** These are other funds, that he is collecting from.

**Chairman Grande:** He gets to keep half of everything he raises but it requires him to raise that much because he wants to pay out that much. So what is he going to do with all this extra money?

**Rep. Dahl:** That goes to the counties for training.

**Rep. Meier:** If you look at the fiscal note, for 2011-2013, but 2009-2011 is \$70,000 and then it jumps from there to \$74,200.

**Chairman Grande:** Think he's thinking he's going to get more business, is the only thing I can think of.

**Rep. Winrich:** Probably anticipating more chemical storage.

**Rep. Wolf:** The payment for the counties goes up.

**Rep. Conklin:** I think that the funding of this is kind of messed up. I have a real question with, since being on the board of Central Power, and that was one of the substations if they said it paid so much, etc. If they pay \$25 and they have 30 substations, at \$25 per premises, I assume they are paying \$25 for each one of them, which is not a big deal but if they are going to jump up to \$475 for everyone of those substations, that's a pretty big jump.

**Chairman Grande:** But to get up to the 475 they would have to be storing 19 different products under this.

**Rep. Conklin:** Honestly, don't think they are, but don't really know, wish I knew. I assume they probably have one chemical, which is two CB's which they can't determine. There probably is none, but they can't determine that so they pay it. It is a pretty big hit on them.

**Rep. Winrich:** They have to know the amount because that is part of assessing the fee.

**Rep. Conklin:** The amount of the chemical? Depending on the chemical.

**Rep. Winrich:** Yes.

**Chairman Grande:** Alright we have a Do Not Pass that has been tabled from this bill. Do you want to take this bill off the table?

**Rep. Kasper:** Yes.

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

**Chairman Grande:** We have 1484 in front of us with Do Not Pass motion. Clerk will call the roll on the Do Not Pass.

**Clerk Erhardt:** Roll call. Total: Yes: 3. No: 10. Absent: 0.

**Chairman Grande:** Do Not Pass Motion failed. Do we have motion for a Do pass?

**Rep. Dahl:** Move motion for a Do Pass.

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

**Chairman Grande:** We have a Do Pass motion by Rep. Dahl and 2<sup>nd</sup> by Rep.

**Wolf.** Any discussion? Clerk will call the roll?

**Clerk Erhardt:** Roll call. Yes: 10. No: 3. Absent: 0. Carrier: Rep. Winrich.

**Chairman Grande:** Committee this will be re-referred to appropriations.

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1484

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
<b>Revenues</b>				\$70,000		\$74,200
<b>Expenditures</b>				\$70,000		\$74,200
<b>Appropriations</b>				\$70,000		\$74,200

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
			\$35,000			\$37,100		

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).*

Bill would keep current fee at \$25 but raise the maximum amount per facility from \$150 to \$475.

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.*

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.*

Bill would provide an additional revenue of \$70,000 per biennium to the agency of which 50% or \$35,000 would go to the county and \$35,000 would remain with the agency in the Hazardous Chemical fund 378.

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.*

The biennial expenditures would increase by \$70,000 for the agency. \$35,000 would be spent as additional grants to the counties and \$35,000 would be spent by the agency for increased costs of 2 FTE that administer the program along with training and materials related to the Hazardous Chemical Program.

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.*

Appropriations increase for the agency by \$70,000. This amount has been included in the 09-11 budget request.

<b>Name:</b>	Holly Gaugler	<b>Agency:</b>	Adjutant General
<b>Phone Number:</b>	(701) 333-2079	<b>Date Prepared:</b>	01/20/2009

Date: 1/29/09  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. \_\_\_\_\_

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 1A84

Action Taken Do Not Pass

Motion Made By ~~Do Not Pass~~ Kasper Seconded By Boehning

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) 3 No 10

Absent 0

Floor Assignment Tabled by Rep Winrich

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

#2

Date: 11/29/04  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1484

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Rep. Dahl Seconded By Rep. Wolf

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) 10 No 3

Absent 0

Floor Assignment Rep. Winrich

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

Re-referred to appropriations

**REPORT OF STANDING COMMITTEE**

**HB 1484: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**  
(10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was rereferred to the  
**Appropriations Committee.**



2009 HOUSE APPROPRIATIONS

HB 1484

# 2009 HOUSE STANDING COMMITTEE MINUTES

HB 1484

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9282 (8m 40s)

Committee Clerk Signature

*Jeannette Cook*

Minutes:

**Chm. Svedjan** took up HB 1484.

**Rep. Lonny Winrich, District 18, Grand Forks** approached the podium. Rep. Winrich distributed his floor speech. He is representing the GVA committee, which gave this bill a Do Pass recommendation. The bill refers to a database that is maintained in the Department of Homeland Security. He explained the bill as stated on **Attachment A**.

**Chm. Svedjan:** The fiscal note says the \$35,000 retained by the agency would be to cover increased agency costs for two FTE to cover the administrative costs.

**Rep. Winrich:** Those are existing FTEs.

**Chm. Svedjan:** This is new money in, and new money out?

**Rep. Winrich:** Yes, to support those two positions.

**Rep. Ekstrom** moved a Do Pass on SB 1484.

**Rep. Klein** seconded the motion.

**Rep. Berg:** If we need to generate \$17,000, why are we increasing the fees to \$70,000?

**Chm. Svedjan:** It's the \$35,000 split, \$17,500 for each year.

**Rep. Berg:** Why don't we change the split so that we raise the fees \$17,000 and it goes to track this?

**Rep. Winrich:** The \$17,000 was the annual additional cost. \$35,000 covers the biennium.

Another provision in the law says the fees collected must be shared with the local emergency planning commissions. \$35,000 would need to go back to the counties, and \$35,000 would go to the biannual budget of the Office of Homeland Security.

**Rep. Berg:** The 50/50 split is in statute.

**Rep. Delzer:** The 50/50 split is in the bill language. I don't see a reason to raise the fees. If we need to do something to address that so that the auditor doesn't have a problem with that, maybe we need to do that. I don't see a problem with using general fund money for this. It is for the protection of everyone in the state.

**Svedjan:** You are suggesting that we appropriate the \$35,000, rather than increasing the fees?

**Rep. Delzer:** They have obviously been covering it within their budget for a long time. Would we have to appropriate anymore?

**Rep. Pollert:** I'm one of the facilities that pay this, and I question the increased fees. It's got to go to the county emergency manager no matter what. It will cost the same for six chemical as it would for nineteen.

**Rep. Kempenich:** We could put some language in the bill and pull \$35,000 out of their operating and specify the \$35,000. They have been covering that. I think the audit said that they were pulling it out of something else.

**Rep. Skarphol:** I agree. I'm not sure why we're raising \$70,000 when \$35,000 would suffice. If we desire to raise the fee to cover the cost, we could ensure the distribution in the law would flow to the Department of Homeland Security, and there would be no increase going to the county. We could change the formula and cut the appropriation in half.

**Rep. Delzer:** That sounds like it would work, but I'm not sure the numbers would work. Somebody would have to figure that out.

**Rep. Berg:** We could say that the first \$35,000 goes to cover this, and the rest is split normally. We can't change this amount here without knowing what it does.

**Rep. Kaldor:** What is the county exposure? I don't recall if any auditor's report showed that as a problem.

**Rep. Pollert:** The emergency coordinator will get a letter that tells what that facility handles. He will put it into a computer database.

**Repl. Delzer:** The problem created is not the fact that something is not getting done. It was when the auditors did it and said they found a problem with the language that said this was supposed to be covered by the fee. I don't see that language here. If we do want to raise the fees, we should make it OK for the Adjutant General to use some general fund money to cover this. Maybe, it's as simple as changing the amount of time, I can't believe it takes two people full time to do this job. Maybe they need to address a ½ FTE to whatever they are doing the rest of the time.

**Rep. Kroeber:** Every county has to have an emergency manager or share an emergency manager with another county. Each one of these counties has to have an emergency plan. These dollars will set up that plan and execute it, so they know where those chemicals are at if something occurs. The dollars are needed by the emergency managers and the counties. It isn't just our problem.

**Rep. Delzer:** I have never heard any of them say they need this. This was put in because the auditor said there was something wrong with the way the Attorney General's budget was set up. If you want to raise the fee and give it to the emergency managers, I'm sure that they will take it and use it. It is not a big deal, unless you are the one paying \$475 instead of \$150.

**Re. Kaldor:** I agree. It's not very much unless you are the one paying the fee. The taxpayers will pay it if it comes out of the general fund. Is that appropriate?

**Rep. Hawken:** Rep. Winrich had a policy committee hearing on this and hopefully asked these questions.

**Rep. Winrich:** Many of the same objections were raised in GVA. That's why the vote was 10-3. Some objected to raising the fees. No one proposed amendments.

**Chm. Svedjan:** Rep. Pollert, you don't pay as much because you don't handle that many chemicals. So, apparently the formula is based on how much you have in storage or access to?

**Rep. Pollert:** It depends on the type of chemicals. I handle 60 to 100 chemicals, but there are certain ones that are specifically labeled, like aluminum phosphide, that would need to be sent in with a \$25 fee. Any chemical facility, grain elevator, and fertilizer operator has to fill the form out by law. We do this every spring. I don't like the increase in the fees.

**Rep. Kerzman:** He has the option of passing those fees on to me.

Question was called.

A roll call vote was taken. **Aye 13 Nay 12 Absent 0**

**The motion passed.**

**Representative Winrich will carry HB 1484.**

Date: 2/11/09  
 Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1484**

**Full House Appropriations Committee**

Check here for Conference Committee

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

Action Taken No Pass

Motion Made By Ekstrom Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich		✓			
Rep. Skarphol		✓	Rep. Kroeber	✓	
Rep. Wald		✓	Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson		✓	Rep. Kaldor	✓	
Rep. Berg		✓	Rep. Meyer		✓
Rep. Dosch		✓			
Rep. Pollert		✓	Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland		✓			

Total (Yes) 13 No 12

Absent 0

Floor Assignment Rep. Wenzel

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

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2009 6:08 p.m.

**Module No: HR-27-2799**  
**Carrier: Winrich**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1484: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS**  
(13 YEAS, 12 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was placed on the  
Eleventh order on the calendar.

2009 SENATE AGRICULTURE

HB 1484



## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1484

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: March 5, 2009

Recorder Job Number: 10383

Committee Clerk Signature

*Cassie Krow*

Minutes:

**Sen. Flakoll** opened the hearing on HB 1484, a bill relating to hazardous chemical fees. All members (7) were present.

**Lance Goebe**, Office of the Governor of ND, testified in favor of the bill.

**Lance Goebe**- What this bill does is it changes the cap on the amount of dollars that we collect per facility for chemical registration. What this does is raised the cap per facility from \$150 per location to \$275 per location. The money that is raised, 50% would go to the state emergency services agency and the remaining would go to the political subdivisions for emergency management.

**Greg Wilz**, Deputy Director from Department of Emergency Services, testified in favor of the bill. See attached testimony, attachment #1.

**Sen. Taylor**- of the 3,000 some storage facilities, almost all of them would have more than 6 distinct chemicals?

**Greg Wilz**- There are 31 sites that have 7 chemicals, 30 that have 8, 23 that handle 9 or more, 23 that handle 10 or more, 16 that handle 11 or more. There are only about 300 and some that handle more than the threshold amount now.

**Sen. Klein-** what we are hearing then is that if you have 16 that handle 11 or more that they only pay \$25 on 11? So they wouldn't reach that maximum unless they had 19 chemicals?

**Greg Wilz-** yes that is correct.

**Sen. Klein-** do you have anybody that would have reached the maximum?

**Greg Wilz-** yes we have a total of 56 sites that have 19 or more chemicals.

**Sen. Wanzek-** u said that reach the threshold, what threshold are you talking about?

**Greg Wilz-** each one of the chemicals has to be at a threshold quantity before the fee would apply and that varies on whether it is a hazardous or an extremely hazardous chemical.

**Sen. Heckaman-** is some of this online or does it have to be all paper and pencil?

**Greg Wilz-** we are in the transition right now of putting it online.

No opposition to the bill.

**Sen. Flakoll** closed the hearing.

**Sen. Wanzek** motioned for a do pass and to rerefer to appropriations and was seconded by

**Sen. Miller.** Roll call vote 7 yea, 0 nay, 0 absent. **Sen. Taylor** was designated to carry the bill to the floor.

Date: 3-5-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1484

Senate Agriculture Committee

Check here for Conference Committee

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

Action Taken Do Pass refer 2 Apps.

Motion Made By Wanzek Seconded By Miller

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman	X	
Jerry Klein	X		Ryan Taylor	X	
Joe Miller	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Taylor

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

REPORT OF STANDING COMMITTEE (410)  
March 9, 2009 3:06 p.m.

Module No: SR-40-4363  
Carrier: Taylor  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1484: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1484 was rereferred to the Appropriations Committee.**

2009 SENATE APPROPRIATIONS

HB 1484

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1484

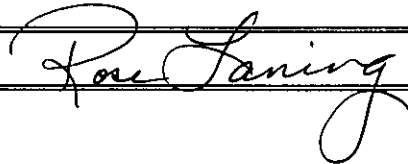
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11078

Committee Clerk Signature



Minutes:

**Chairman Holmberg:** called the committee hearing to order on HB 1484 which relates to hazardous chemical fees. Roll call was taken.

**Greg Wilz:** Deputy Director, Department of Emergency Services testified in favor of HB 1484.

(See attached testimony # 1)

**Senator Krauter:** Refresh my memory, my local retailer is one of these, correct?

**Greg Wilz:** Farmers are exempt by federal law. Those on wholesale or retail side will be involved then.

**Senator Krauter:** The retailers – each vendor is another \$25.

**Greg Wilz:** That's \$25/year or tax. For each vendor, for each chemical above the 6 would be an additional \$25/year.

**Chairman Holmberg:** closed the hearing on HB 1484.

**Senator Krebsbach:** How much are you running short in the funds each year?

**Greg Wilz:** We have been running in the red, \$14,000 to \$17,000 per year for the last three years.

**Senator Christmann:** The 56 largest facilities will see their costs increase.

**Greg Wilz:** No, that's not correct, if you're handling 7 or less. That new cap would provide them with enough money LEPC (Local Emergency Planning Commissions)

**Senator Krebsbach:** Did you consider raising the \$25 fee rather than the number of chemicals.

**Greg Wilz:** We have looked into that and the Executive Branch didn't feel it would be right to raise fees when the state had a surplus. Raise the cap and not the fee. Those with the greatest amount of chemicals have the greatest risk.

**Senator Fischer:** Am I correct that all farm chemicals and all medical chemicals are not in this program? And how many chemicals in ND?

**Greg Wilz:** No that is not totally correct, partly correct. Any chemical that meets a thresh hold number; as defined by EPA, has to be reported on. The farm chemicals are in the program just not at the farmer level. The retailer will pay the fee. ND has over 7000 hazardous or extremely hazardous chemicals.

**Senator Lindaas:** The money collected from this goes to the HAZCHEM?

**Greg Wilz:** 50% of whatever collected makes its way back to the Local Emergency Planning Committee (LEPC), who then gives it to fire departments or whoever needs training with regards to chemical response.

**V. Chair Bowman:** The \$25/year– if you had 25 canisters of one chemical, it's still just 25 dollars a year or is it \$25/years for each?

**Greg Wilz:** It is a one-time \$25/year per chemical that you store.

**Senator Warner:** Moved Do Pass.

**Senator Krebsbach:** Seconded.

A Roll Call vote was taken. Yea: 13    Nay: 0    Absent: 1

The bill goes back to the Agriculture Committee and Senator Taylor will carry the bill.

Date: 3-17-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1484

Senate Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Warner Seconded By Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour	✓	
Senator Fischer	✓		Senator Lindaas	✓	
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner	✓	
V. Chair Bowman	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Mather	E	
V. Chair Grindberg	✓				
Chairman Holmberg	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Ag Committee Sen Taylor

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



**REPORT OF STANDING COMMITTEE (410)**  
March 17, 2009 8:56 a.m.

Module No: SR-48-5018  
Carrier: Taylor  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1484: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1484 was placed on the  
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1484

Attachment #1

Same given to Sen. St. Amand 3-5-05

TESTIMONY – HB 1484  
HOUSE COMMITTEE – GOVERNMENT AND VETERANS AFFAIRS  
JANUARY 29, 2009  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. I also serve as Chairman of the State Emergency Response Commission (SERC) the legislatively mandated body that oversees the state's Hazardous Chemical Program. My intent is to provide information concerning the importance of HB 1484 as it relates to enhanced public safety and to answer questions committee members may have. This bill was a part of HB 1016, the agencies budget bill, and was moved out to stand alone. NDDDES strongly supports HB 1484; it is needed to adequately support the program.

**North Dakota HAZCHEM Program Information**

The Department of Emergency Services administers the Emergency Planning and Community Right-to-Know Act (EPCRA) as outlined in Public Law 99-499, 42 USC 11001. This law is also known as the Superfund Amendments and Reauthorization Act (SARA) Title III. Its purpose is to identify hazardous chemicals and provide citizens information concerning the type, location, and quantity of stored chemicals for the purposes of emergency planning and informing the public of associated risks.

SERC members are appointed by the Governor and manage the program according to the responsibilities outlined in PL 99-499. NDDDES, on behalf of the commission, currently tracks hazardous and extremely hazardous chemicals (a potential list of more than 500,000 chemicals). More than 7,000 extremely hazardous substances (chemicals) are located in 3,033 storage facilities and 51 Toxic Release Inventory locations within North Dakota.

The HAZCHEM program in North Dakota is legislatively established in NDCC 37-17.1-07.1. It is currently funded through a fee of \$25 per chemical (maximum of \$150 or six chemicals) which is charged annually to companies that handle, transport, and store hazardous chemicals. Total charges are determined through yearly reports required from facilities.

Fifty percent of the dollars collected is retained by NDDDES to administer the hazardous chemical program. One and two-third FTEs support administration and operational requirements of the program. The remaining 50 percent is distributed to the 53 Local Emergency Planning Commissions (LEPCs) based upon total dollars collected from all facilities within each county. The LEPCs utilize the funds for training, planning, exercising, and equipment. This fee was established in 1992 and has never been raised.

During the past three years, we have been operating the program at a deficit and have had to offset program costs with general fund dollars from other line items.

The fees have been vetted with the SERC which includes members from private sector businesses.

I will try to answer any questions you may have.

## HB 1484

Chairman Svedjan and members of the House Appropriations Committee, for the record, I am Representative Lonny Winrich from District 18 in Grand Forks. It is my pleasure to appear here and explain House Bill 1484.

HB 1484 relates to the storage of hazardous chemicals in the state and the records of the Office of Homeland Security. The state is required by federal regulations to maintain a database identifying hazardous chemicals stored in North Dakota and their locations. The state Office of Homeland Security maintains the database and has been supporting the cost of the operation by using money from their budget which was appropriated for another purpose. A recent audit of the office resulted in a finding regarding the misuse of appropriated funds. This bill was introduced at the request of the governor to return the program to the status of being supported by fees collected from the storage facilities.

The current fees are \$25 per chemical up to a maximum of \$150. Facilities that store six or more chemicals all pay \$150 per year. The bill would raise the upper limit to \$475, pushing the upper limit on the number of chemicals to 19. This would raise \$70,000 in special funds. Half of this total is returned to the Local Emergency Planning Commissions and the remaining \$35,000 would be retained by the homeland security office to support the program. This would remove the auditor's objection on the misuse of general fund appropriations.

Mr. Speaker, members of the assemble, your Government and Veterans Affairs Committee recommends DO PASS by a vote of 10 to 3 and we urge you to concur.

1

TESTIMONY – HB 1484  
SENATE COMMITTEE – APPROPRIATIONS  
MARCH 17, 2009  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. I also serve as Chairman of the State Emergency Response Commission (SERC), the legislatively mandated body that oversees the state's Hazardous Chemical Program. My intent is to provide information concerning the importance of HB 1484 as it relates to enhanced public safety and to answer questions committee members may have. This bill was a part of HB 1016, the agency's budget bill, and was moved out to stand alone. NDDDES strongly supports HB 1484; it is needed to adequately support the program.

**North Dakota HAZCHEM Program Information**

The Department of Emergency Services administers the Emergency Planning and Community Right-to-Know Act (EPCRA) as outlined in Public Law 99-499, 42 USC 11001. This law is also known as the Superfund Amendments and Reauthorization Act (SARA) Title III. Its purpose is to identify hazardous chemicals and provide citizens information concerning the type, location, and quantity of stored chemicals for the purposes of emergency planning and informing the public of associated risks.

The HAZCHEM program in North Dakota is legislatively established in NDCC 37-17.1-07.1. It is currently funded through a fee of \$25 per chemical (maximum of \$150 or six chemicals) which is charged annually to companies that handle, transport, and store hazardous chemicals. Total charges are determined through yearly reports required from facilities.

Fifty percent of the dollars collected is retained by NDDDES to administer the hazardous chemical program. One and two-third FTEs support administration and operational requirements of the program. The remaining 50 percent is distributed to the 53 Local Emergency Planning Commissions (LEPCs) based upon total dollars collected from all facilities within each county. The LEPCs utilize the funds for training, planning, exercising, and equipment. This fee was established in 1992 and has never been raised.

During the past three years, we have been operating the program at a deficit and have had to offset program costs with general fund dollars from other line items.

The increases have been vetted with the SERC which includes members from private sector businesses. Approximately 223 of the 3,033 storage facilities will incur increases under this bill. (Please see the attached spreadsheet for detailed information.)

I will try to answer any questions you may have.

**Increasing Cap to Correct Operational Cost Shortfalls**

	7	8	9	10	11	12	13	14	15	16	17	18	19
Chemicals	7	8	9	10	11	12	13	14	15	16	17	18	19
Reporting Sites	31	30	23	23	16	8	10	5	7	7	4	3	56
Chemical Multplier	1	2	3	4	5	6	7	8	9	10	11	12	13
Increase Per Category	\$775	\$1,500	\$1,725	\$2,300	\$2,000	\$1,200	\$1,750	\$1,000	\$1,575	\$1,750	\$1,100	\$900	\$18,200
Running Fee Increases		\$2,275	\$4,000	\$6,300	\$8,300	\$9,500	\$11,250	\$12,250	\$13,825	\$15,575	\$16,675	\$17,575	\$35,775

Notes To generate the same amount of funding with current cap the basic fee would need to be increased by \$2.66  
 Current cap is 6 chemicals  
 Current fee is \$25.00 per chemical up to six  
 There are 3,033 storage locations reporting threshold chemical amounts  
 Approximately 223 locations would be seeing increases