

2015 SENATE POLITICAL SUBDIVISIONS

SB 2315

2015 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB 2315
2/6/2015
Job Number 23381

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to liability of political subdivisions.

Minutes:

Written testimony #1 Senator Campbell
Written testimony # 2 R. Blake Crosby

Chairman Burckhard opened the hearing on SB 2315. All senators were present.

Senator Campbell (:49-2:24) Sponsor of SB 2315. Written testimony #1.

Chairman Burckhard It seems like 1971 was a long time ago. I wonder why it's been so long?

Senator Campbell There are some people in this room that probably are a little bit more knowledgeable and will pass that on to them in neutral testimony.

Senator Judy Lee I think it would be helpful if one of the people that is in the room might be able to bring the members of the committee up to speed a little bit about NDIRF and how the current system works and what we would be looking at.

Steve Spilde, CEO of North Dakota Insurance Reserve Fund (NDIRF) (3:48-) We provide liability coverage to nearly all of the political subdivisions in North Dakota. You had a question earlier, with regard to when the tort camps were put into place. **Chairman Burckhard** in 1971, I am wondering why it hasn't been changed or updated since that time.

Steve Spilde Just a slight alteration to the date. Actually, political subdivisions in North Dakota law sovereign immunity in 1974 in a court decision involving the Minot Park District. The court limited its decision though to that particular case and allowed the Legislature to meet in a 1975 to deal with the issue. Some statutes were passed in 1975. The current statute has been in place since 1977. It is over 35 years. They've been in place that long, and to my knowledge have not really been challenged. To my knowledge that also is all that unusual. 36 states around the country have set-ups very similar to North Dakota in terms of per person cap, an occurrence cap on damages against a political subdivision. North Dakota is right in the middle. There are 18 that have caps higher, than the \$500,000 North Dakota caps, and there are 18 states at \$500,000 or less.

Senator Judy Lee Can you tell me what you think the impact on premiums would be if we made this cap increase by this significant amount?

Steve Spilde That is a difficult question. I guess the easy answer is they are not going to go down for sure. How much they would increase is a difficult question. We've been consulting with our actuary since the bill was introduced and obviously it was a concern of ours. At the level of the bill, the best advice that we could get is simply an estimate because the caps are in place. The proviso that the actuary gives us is that we've had no claims at that level, and the reason for that is that the caps have been in place at that level for all these many years. Their advice to us would be at the \$3 Million dollar that is in the bill, would be to start funding for an additional \$300,000 loss or in losses per year. With the expectation on their part that this wouldn't be a frequency situation or occurrence cap that we would catch to one that actually occurred.

Senator Anderson It seems to me that one of the reasons we don't address this very often, is we've had very few accidents of this nature that effected these state political subdivisions. Do you have some information on how often we get a claim?

Steve Spilde I don't specifically have that information. Anecdotally I can tell you that we do not often get a claim involving a number of people with serious injuries, but it's not as if they don't happen. In fact even with the school bus accidents we've had members with 3 additional ones in the last four years. Thankfully the injuries were not to the extent of the Larimore accident but there were some serious injuries involved. So, it is a matter that can come up. With the caps in place as they have been for the entire time that NDIRF has been in existence, we started operating in 1986, well after the caps had been put in place by the Legislature. Since that time, on the individual side, it becomes an issue not frequently, that you have injuries that might exceed \$250,000. On the occurrence side, it is less often just because fewer accidents happen involving several people, but they do occur. We don't have any specific data though with regard to that because the caps have been place and it hasn't been an issue.

Senator Bekkedahl I am assuming this cap has nothing to do with the sovereign immunity of the \$250,000? Isn't there a limit of \$250,000 in North Dakota for protection of political subdivisions? In some cases that has nothing to do with this, is that correct?

Steve Spilde It does pertain to that situation. The cap is in place for political subdivisions not necessarily for NDIRF. As it happens because we are a self-insurance pool the pool takes advantage of the cap where it is able to use the cap in its defense as an individual political subdivision would. We offer higher limits to political subdivisions, in fact our maximum limit is \$2 Million dollars in liability. The reason we do that however, is because there are claims that they are exposed to that aren't covered by the Tort caps, for instance, mostly under federal law; federal employment statutes, constitutional claims and that type of thing.

Chairman Burckhard So, where do you get your revenue from? Is it all from political subdivisions that belong to the North Dakota Insurance Reserve Fund?

Steve Spilde Yes, that is correct. We underwrite our risks and issue in essence, we call our policies the memorandums of coverage and we call our premiums contributions. That is just a different nomenclature because of the pool. But we operate in the same type of way in that we get an application from a member, we look at the risk and underwrite the risk and apply a cost. Our entire funding comes from that. Over time we've built up a surplus and so investment income is also a part of our income.

Senator Anderson It seems to me that the cap works pretty well and one of the reasons I signed on to this bill, was cap works well for one or two injuries. But when it gets to be more than that, it quickly goes over that \$500,000 and then the rest of them are left, or were dividing up the \$500,000 among multiple people. Most of us in the private insurance market, you know were at \$1 Million, \$3 Million that area so, let's assume that your actuaries are correct and that you're planning for another \$300,000. What would you anticipate the premium increases to be to cover that?

Steve Spilde That would translate directly if we looked at it in that way to about a 5% increase in liability premium. How we would actually determine that I am not totally sure we would need to increase our limits. For instance I think our maximum limits are at \$2 Million and they even could go to \$3 Million. We would have to take a look at not only funding current premium but how we handle those kinds of claims and whether we would look at an aggregate limit for our membership or have to purchase some re-insurance to try and cover ourselves that way. There is always that black swan event that is out there that you either cannot anticipate or you can't competitively fund for and we need to thinking about that.

Senator Judy Lee How many political subdivisions currently insure at a level higher than the \$300,000, do you know?

Steve Spilde Our standard limit is the \$250,000, \$500,000 per occurrence, nearly all have purchased higher limits. We don't charge a great deal additional for that. To go to one million is another 10% and to go to two million is another 5% beyond that. So, most of our members are actually at the \$2 Million dollar level. We may have a significant number of members who don't have employment risks who are at the \$250,000 or \$500,000 or where it might even make some sense. But most of those have purchased additional limits as well, so I think I don't have the exact number but more than half of our membership would probably be at that \$2 Million dollar level.

Senator Bekkedahl I know in the past that you've operated the system so well that we at times get conferments back, is that what you still call them? So a 5% increase may be able to be absorbed in that scenario. I understand if there is no conferment it is a 5% increase, but there might be some room to do this and actually it will cost the political subdivisions something, but, it just maybe a reduction or conferment? Can you just go over that?

Steve Spilde It will come one way or the other and depending upon our experience. The conferment of benefits is in essence a dividend that we provide and we've been doing this for 20 consecutive years of doing that. It rises, so it's greater or lesser depending upon our performance in the prior year. If the performance in the prior year doesn't change, if there are no serious accidents in that following year, there will probably be very little impact as a result of this particular event on that. If there are, there would be.

Senator Judy Lee With the disclaimer that I have lawyers in my family, I see this as a trial lawyers dream. It seems to me that suits go to where the caps are for whoever the cap might be and we live a lot with that, with medical coverage and the state has I think really good controls in place with protections for the public but not outstandingly high levels for damages beyond what costs might be. So, would you just clarify for me, you're not talking about paying the costs that somebody incur here, you're looking at sort of a pain and suffering kind of deal, or are you talking about hospitalization, therapy or that kind of thing?

Steve Spilde The limits in place apply regardless in how the damages are characterized, so that if you have a situation involving one individual and there are \$100,000 in medicals and \$200,000 awarded in pain and suffering, or emotional distress then you have a \$300,000 award; \$250,000 cap, it would be reduced to \$250,000. **Senator Judy Lee**, so they are both included? **Steve Spilde** They both could be included, yes.

Senator Dotzenrod It appears to me looking at this bill that it doesn't change the per person amount of exposure. It stays the same in this bill, but it does say that if more than 3 people are injured then those extra beyond three will also be entitled to that same \$250,000 limit up to a maximum of 13. So, it is kind of very unusual to have more than 3 people involved in something like this. It would be pretty rare. Have we ever had a situation where that 3, became a problem like the 3 on line 19, where we actually found that the number got to be greater than 3, and because of that the amount that was available to be paid out was limited.

Steve Spilde I can recall a claim back in the time when NDRIF provide coverage to the university system and the state fleet with regard to vehicles. (example cited 15:19- 15:49) A bus incident is probably a prototype that we would be looking at here either a city bus or a school bus.

Senator Grabinger I am wondering who proposed the amendments? Would they explain the amendments?

Mark Johnson (16:27- 17:40) Association of Counties These are the amendments I think that would probably have Mr. Spilde discuss them. I came here to see the lay of the land and I just want to say that the counties who I represent through the Association of Counties are concerned about the reach of this bill to the \$3 Million dollars and we think that it would be prudent to look at something that might be much less than that but still allow us to be able to give a fair award to serious accidents, such as the one in Larimore. We would be more than happy to work with the committee to try find, some type of compromise on this bill if that is the committee's wishes.

Chairman Burckhard a fair award is somewhat a relative term.

Mark Johnson yes it would be. As Steve explained these caps were put into place as a result of the Supreme Court stripping the immunity that political subdivisions had prior to that. We were immune from any of these accidents, so that made us come back and work with the Legislature to try to find what was equitable back in 1977. It was an extensive process to get through those caps and yes we have lived with them ever since and yes it has been a number of years, but I think that going to \$3 Million would be a large move and

this bill will not address the issues that are going to be faced in the next years in the Larimore case. But whether or not we want to be proactive is the question going forward.

Senator Anderson We have heard the Insurance Reserve Fund talk about a \$2 Million dollar optional plan that they have now, which apparently this subdivision didn't have. But would that be more amendable if we replaced the \$3 with \$2 million, probably lower the premium from a possible increase of 5 to 4 or 3, whatever?

Mark Johnson I think because this is the insurance business and it took me a number of years to really understand it and all the intricacies that are involved I want to clarify or reiterate what Steve Spilde told you. Many of the political subdivisions insured at \$2 million dollars, but the reason they do that is that there are other exposures outside of the state caps. Federal law is almost unlimited in terms of the exposure that you can face if you have to address a federal lawsuit. So, political subdivisions have bought coverage because it has been fairly reasonable to go to that level to make sure that they are covered outside of the Tort caps that are contained within the state. So, that is the exposure they are paying the \$2 Million for; there are not paying the \$2 Million thinking that somebody is going to give a judgment in excess of \$250,000 per individual and \$500,000 per occurrence. That is where the \$ 2Million comes in. That doesn't equate to because we buy \$2 Million we'd be happy with \$2 Million.

R. Blake Crosby, North Dakota League of Cities (21:19-25:41) Written testimony # 2. I am not only the Executive Director of the North Dakota League of Cities, but I am also a member of the NDRIF Board of Directors.

Senator Bekkedahl The bill sponsors here have kept the limit at \$250,000 per person, what's happening they've raised it to \$ 3 Million dollars for injury, to 13 or more persons during any single occurrence. Are your actuaries able to define how many cases of occurred in their historical analysis, that involved 13 or more people in a single occurrence? That may be helpful.

R. Blake Crosby I am going to pass it off to Mr. Spilde. **Chairman Burckhard** Are you making some suggestions that maybe this should go to a study? **R. Blake Crosby** yes, again I am not an insurance expert or an attorney, I don't hold myself out there in any those, but there are a lot of moving pieces here. Insurance is a very complicated product and yes, I think that would be advisable at this point in time.

Steve Spilde North Dakota Insurance Reserve Fund We don't keep our records in the way that you're suggesting as far as quantifying how many people might have been involved in an incident. We just keep track of how much claim loss there is. Anecdotal evidence is what I am referring too when I am answering questions with regard to how many of these incidents have come up in the past. I can't really retrieve the information as to how many incidents involve two people or three people, that type of thing. Our records would just indicate the amount of money expended.

Senator Bekkedahl Would it be possible, even historically, for somebody to figure that out? I mean if you have an incident and there's been a payment of a claim made there must be some records involving the incident to the payment of claims where somebody historically

can research even google research the Grafton newspaper about this incident. Is that possible to do? You say you don't have that information, your actuaries don't take that information, is it ever possible to get that information and tie it altogether.

Steve Spilde The only way I could think of doing that off hand for us would be to do claim loss runs year by year and go through them. We can list the cause of loss and there would be some that we could probably pull out and we would suspect or maybe even remember with regard to that particular claim, but there may have been more people involved than a single person, and then go to the actual claim file and make that determination.

Senator Grabinger Are you the one who presented these amendments to this bill or not?

Steve Spilde I am not aware of the amendments.

Larry Syverson North Dakota Township Officers (29:44-30:43) I have very little to add to what Mr. Johnson and Mr. Crosby have already given you. I would support a study of this issue, a legislative study. I think that would be a great idea. I wish to say that the Insurance Reserve Fund puts a lot into loss prevention helping the subdivisions do things right so, any situations can be prevented. They go out on the road with us and help us educate our township officers on putting up signs and maintaining them and just help to do things right.

Senator Judy Lee Senator Campbell it appears as if the bill is really drafted very narrowly and pretty much is going to be covering busses if we're talking about 13 or more. Can you just elaborate a little bit. I realized what caused this bill to be coming here. But, in looking at this for the future, are there other areas where there might be 12 people involved in something that is not a bus accident that would be affected here? Tell me a little bit about how you chose those parameters please?

Senator Campbell This is what Legislative Council and Tim Dawson ^(amendment 1 k) in just looking at this we drafted this about 3 weeks ago, so we were where the accident had happened two and a half weeks after this, so we just took kind of a guess. There is nothing magical about 13, other than there is more than 3 or is a single incident. So, there is nothing magical at all, we just decided that 13. We are open for amendments. I do realize discussing with some of the insurance experts in this room, the million dollar level was probably more rationale than \$3 million at the time we drafted this. We didn't realize that, since then we are working backwards. We are open to amending in a lower level which makes more sense now after realizing and discussing this yesterday with the some of the other people that testified.

Chairman Burckhard You are not familiar with the proposed amendments to this bill are you?

Senator Campbell No those came from another senator in a neighboring district dealing with the seat belts. That is a whole another topic that could be discussed.

Senator Grabinger You've heard the discussion about possibly turning this into a study. Would you be amenable to that?

Senator Campbell I am open. I would probably lean toward a dollar value because you know how studies are. They are just kicking the can down the road. Just because of the fact

that it would give some assurance to some of the people in Larimore and other people. I have a lot of constituents approach me and asked me of their concern if this happens again, to give that option to raise it some. I think just consulting and visiting with some of the insurance people, the million dollars would be a very compromise to seriously discuss before we put it into a study. We can discuss this after the amendment, but I would like to lean toward that, if at all possible, if the committee would consider that.

Chairman Burckhard closed the hearing on SB 2315.

Committee Discussion

Senator Judy Lee I recognize the value of having the people who actually are stakeholders in this issue being the ones who come forward with some kind of proposal. I am just wondering if Senator Burckhard would be willing to permit the folks who had suggested they could perhaps work together to come back to us with something. Please have something that might be workable because it would nicer to do it with them, instead of to them.

Senator Anderson The reason that you see the 13 in there, is $12 \times \$250,000 = \3 Million so then over the 12, is the 13 number. So if you reduced it to \$1Million dollars for example then you would have 4 or more, so if you \$2M then you would have 8, so that number is variable based on how many dollars you have available.

Chairman Burckhard Would those stakeholders consider getting together next week? Yes

2015 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB 2315
2/12/2015
Job Number 23767

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to liability of political subdivisions

Minutes:

Amendment ending on .01003-Written testimony

Chairman Burckhard brought the committee for discussion on SB 2315. All senators were present.

Chairman Burckhard it was heard on February 6, 2015, relating to liability of political subdivisions.

Senator Campbell that is your red envelope on the podium. I passed out those amendments although we haven't yet addressed them as yet.

Chairman Burckhard On this bill, the original amendment that was given to us and was not addressed, not acted on, not presented to us was 15.0959.01002 having to do with school bus seat law. Since it was not presented it is my understanding that we do not have to act on it. There is no motion, so we will ignore that amendment.

Chairman Burckhard The one that I believe we are not going to ignore is the one that Senator Campbell is presenting to us today, 15.0959.01003.

Senator Campbell Mr. Steve Spilde of the North Dakota Insurance Reserve Fund CEO and there Board of Directors met and even though I was requesting \$3 Million dollars, after discussing this I think the committee thought that dollar amount was too high. Minnesota is \$1.5 Million, SD is still has immunity; Montana was \$1.2 Million. A lot of eastern states come in at \$250,000 or \$500,000 which really surprised a lot of us because of their larger lawsuits out there. There is a reason you put a cap on it. I am going by Mr. Steve Spilde's expertise and there board recommended that \$1 Million dollars was more than fair. They just worked the numbers backwards as far the 13 to the 3. The numbers isn't important as the dollar value.

Senator Anderson Also during this testimony, I think I visited with Todd Anderson of OMB, and he suggested that maybe if we wanted to look at all the liability limits that we could direct a study by OMB to do that during the interim and would you be interested in that?

Senator Campbell I would just like to stick with one because the unknown of the premiums.

Senator Anderson Unless I am wrong, the \$ 2 million dollars that most people carry is for other occurrences, like employee issues, sexual assault. It doesn't cover this kind of thing.

Chairman Burckhard Senator Campbell read line 19, for me after it amended.

Chairman Burckhard starting with line 17, referenced those 6 lines.

Senator Campbell The liability of the political subdivisions under this chapter is limited to a total of \$250,000 dollars per person, and \$1 Million dollars for any number of claims arising from a single occurrence. I think that makes sense, it's changing it, according to a dollar value.

Steve Spilde (6:30-) No. Dakota Insurance Reserve Fund answered several questions from the committee.

Senator Judy Lee Could you just elaborate a little bit as how you see this fitting in with what's going on here? I mean are we moving to rapidly? I understand your tragedy in Larimore, but we can't put a face on this. We have to figure out the business side of it, so help us see how this shakes out for you from a business perspective in your position?

Steve Spilde From a business perspective, and looking at the amendments we are looking at changing the \$3 Million to \$1 Million dollars per occurrence. From our business perspective we don't see that as having an immediate dramatic impact. Over time it will tell, and it will probably show up rather than bus accidents, probably more so in the vehicular accidents where there are 3 or 4 parties involved. It is less dramatic than a bus accident, but more of it there. In consulting with our actuaries, moving it the million dollar level is something we feel we can do and probably accommodate within pretty much the structure that we have for rates.

Senator Judy Lee Please clarify for my own purpose here. So, the \$1 Million dollars would be for each of those, so if you had 4 people in the car it would be \$4 Million or is \$ 1 Million divided up between each person in the occurrence?

Steve Spilde My understanding is the \$1 Million dollars would be available to any number of people involved in that occurrence. So if there we ten people involved in that occurrence there would still be \$1 Million dollars available. **Senator Judy Lee** So the pool is available to however many people are affected by the occurrence. **Steve Spilde** For up to 4 persons there is a possibility of \$250,000 each for them, beyond that it is a \$ 1 Million for however many more.

Senator John Grabinger moved to amend 15.0959.01003.

Senator Bekkedahl 2nd

Roll call vote: 6 Yea, 0 Nay, 0 Absent

Senator Bekkedahl moved on SB 2315 do pass as amended

Senator Grabinger 2nd

Senator Anderson Can you tell us about the implementation dates on this and how it would affect current policies and how we role it into the new ones, etc.

Steve Spilde We would need to change our policy form to provide the dollar amount of \$250,000 per individual, \$500,000 for occurrence now. We would change our declaration stage to reflect that change in the law whenever it would become effective, July 1. There has been no amendment in regard of delaying implementation on this.

Senator Anderson Then everybody who has your policy would move to \$1 Million dollars and then you would adjust the premiums in the future based on whatever came out of the actuaries?

Steve Spilde That is correct. We would actually anticipate very little change rolling out and then we will have to retrospectively look. What actuaries do is they predict this upon what has happened in the past. If you haven't had a past at that level they don't really know. So we will be flying with this for a while and see how it goes.

Roll call vote:

6 Yea, 0 No, 0 Absent

Carrier: Senator Judy Lee

2/12/15
Jre

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

Page 1, line 18, replace "three" with "one"

Page 1, line 19, overstrike "injury to"

Page 1, line 19, remove "thirteen"

Page 1, line 19, overstrike "or more persons during" and insert immediately thereafter "any
number of claims arising from"

Renumber accordingly

Date: 2.12.15
Roll Call Vote: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2315**

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: 15.0959.01003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Grabinger Seconded By Senator Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-12-15
Roll Call Vote: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES 2315
BILL/RESOLUTION NO.

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Bekkedahl Seconded By Senator Grabinger

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Judy Lee

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

REPORT OF STANDING COMMITTEE

SB 2315: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 18, replace "three" with "one"

Page 1, line 19, overstrike "injury to"

Page 1, line 19, remove "thirteen"

Page 1, line 19, overstrike "or more persons during" and insert immediately thereafter "any number of claims arising from"

Renumber accordingly

2015 HOUSE POLITICAL SUBDIVISIONS

SB 2315

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee

Prairie Room, State Capitol

SB 2315

3/13/2015

24806

☐ Subcommittee

☐ Conference Committee

Annalisa Musola

Explanation or reason for introduction of bill/resolution:

Relating to liability of political subdivisions

Minutes:

Testimony 1, 2,

Chairman Klemin: Opened hearing on SB 2315

Senator Campbell: Testimony 1

Blake Crosby: Testimony 2

Chairman Klemin: Are you here also appearing on behalf of the North Dakota Insurance Reserve Fund Board also?

Blake Crosby: Yes

Representative Koppelman: I thought I just heard Senator Campbell that there would not be premium increases at this level and I think you said there would be.

Blake Crosby: I stand corrected there is no premium increase at this time.

Representative Klein: When was the last increase?

Blake Crosby: I believe the last increase was in the 70's

Representative Kretschmar: Did you or your colleagues consider the possibility of raising the quarter million dollar limit per person that is in the statute? That hasn't changed in the bill, it is in the law.

Blake Crosby: We had a long discussion on the coverage as it exists and we opted for this 1 million per occurrence.

Representative Koppelman: The original statute says 250,000 per person and 500,000 for injury to 3 or more persons, so it is strictly based on the number of people. The change says 250,000 per person and one million for any number of claims arising from a single occurrence. Are they in conflict with each other? If it is a single occurrence but one person?

Is the limiting factor there and it would have to be more than one in order to trigger the second?

Chairman Klemin: Most insurance policies don't say that, they say per person and per occurrence without specifying any number of, so that any number of claims is surplusage language which doesn't change anything.

Representative Koppelman: Any number could include one.

Chairman Klemin: Per person is the limiting factor and so anything over one would be subject to the 1 million dollar cap.

Representative Klein: I move a do pass

Representative Koppelman: Second

Representative Kelsh: I am wondering if it is gross negligence and one has been killed, a judge then is limited by this bill as to what they can award. Is there any way that a person can collect more than 250,000 if they had a family member killed? I need some clarification.

Chairman Klemin: It doesn't appear to me that the bill differentiates between ordinary negligence and gross negligence so any level would apply to the same caps.

Representative Hatlestad: I wonder if that wouldn't result only from the ND Insurance fund. You could sue for more but that is all that fund will pay.

Chairman Klemin: That would be correct.

Steve Spildee: With regard to the question pertaining to the difference between gross negligence and ordinary negligence is the term basically. There is no differentiation. The cap is the same.

Chairman Klemin: A person can always sue for more but the Insurance Reserve Fund won't pay any more than what is said in that statute. Correct?

Spildee: Yes. The limitation on damages applies to political subdivisions, not specifically the North Dakota Insurance Reserve Fund- if an entity was self-insured that would apply to self-insured entities as well.

Chairman Klemin: That is the limit of liability of political subdivision and would that be the limit of liability of a particular employee?

Spildee: Yes unless there were an obligation of actions outside the scope of employment. The law enforcement area is where we see that more.

Representative Koppelman: I am looking at this chapter its government liability under 32-12.1 so I don't think it has anything to do with the insurance reserve fund. It is just the limit of liability for political subdivision right?

Spildee: Correct. NDRIF is a government self-insurance pool. In essence it is a lot of organizations that have joined together. Whether you are self-insured and not in our pool or self-insured as part of our group and pool the limit is the same.

Representative Koppelman: So a court would be limited by this liability restriction. In other words you could sue for 10 million dollars but under this law it is the limit.

A Roll Call Vote Was Taken: Yes 13, No 0, Absent 1 (Strinden)

Representative Kretschmar will carry the bill

Date: 3/13/2015
Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2315**

House Political Subdivisions Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Klein Seconded By Koppelman

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin	X		Rep. Pamela Anderson	X	
Vice Chair Patrick R. Hatlestad	X		Rep. Jerry Kelsh	X	
Rep. Thomas Beadle	X		Rep. Kylie Oversen	X	
Rep. Rich S. Becker	X		Rep. Marie Strinden	/	
Rep. Matthew M. Klein	X				
Rep. Kim Koppelman	X				
Rep. William E. Kretschmar	X				
Rep. Andrew G. Maragos	X				
Rep. Nathan Toman	X				
Rep. Denton Zubke	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Kretschmar

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

motion carries

REPORT OF STANDING COMMITTEE

SB 2315, as engrossed: Political Subdivisions Committee (Rep. Klemin, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2315 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2315



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



SB 2315
2.6.15
#1

Senator Tom Campbell

District 19
15135 County Road 11
Grafton, ND 58237-8802
Cell: 701-520-2727
tomcampbell@nd.gov

COMMITTEES:

Industry, Business and Labor
Transportation

02/06/2015

Chairman Burckhard and Committee members;

I am Senator Tom Campbell bringing to you SB 2315. This bill relates to the tragic train/bus accident in Larimore a few weeks ago. The Highway Patrol's investigation is still in progress so I won't speak to anything relating to their investigation. There were six families and a total of fourteen people directly impacted by the accident. One family had three children in the accident and another family had four children in it. The bus driver, who was also a teacher, and one student died in the accident. Two students were not taken to the hospital and to my knowledge, that family has incurred minimal expenses.

Of the other students, several were dismissed within a few days, two were airlifted to Minneapolis, one was airlifted to Fargo and the others stayed in Grand Forks with a variety of injuries. Thankfully, all are now out of the hospital and are returning to school.

My concern today can not help the victims of this accident but hopefully protect any future accidents with a higher level of protection. Requesting you to consider raising the liability cap on the ND Insurance Reserve Fund NDIRF from the current \$500,000 to \$3,000,000. This has not been adjusted since 1971. Many business and farms have liability insurance that far exceeds this \$500,000 outdated level. I believe raising the cap would help solve the issue and concerns many of my colleagues have with setting precedence for any future accidents.

February 4, 2015

SB 2315
2.6.15
#1A

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-21 of the North Dakota Century Code, relating to safety belts in schoolbuses; and to"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "32-12.1-03" insert "and 39-21-41.1"

Page 1, line 2, after "subdivisions" insert "and safety belts in schoolbuses"

Page 3, after line 21, insert:

"**SECTION 2.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Schoolbus passengers - Safety belts - Enforcement policy.

1. Each passenger on a schoolbus equipped with safety belts shall wear a properly adjusted and fastened safety belt at all times when the bus is in operation.
2. Each passenger on a schoolbus not equipped with safety belts shall remain seated at all times when the bus is in operation.
3. The board of each school district shall:
 - a. Present to the parent of a student being transported in a schoolbus a copy of this section.
 - b. Develop and present to the parent of a student being transported in a schoolbus, the school district's policy setting forth the consequences for a student's failure to abide by the requirements of this section or by the school district policy.

SECTION 3. AMENDMENT. Section 39-21-41.1 of the North Dakota Century Code is amended and reenacted as follows:

39-21-41.1. Safety belts.

1. Every passenger car manufactured or assembled after January 1, 1965, must be equipped with lapbelt assemblies for use in the driver's and one other front seating position.
2. All motor vehicles manufactured after January 1, 1968, must be equipped with any lapbelt or shoulder belt required at the time the vehicle was manufactured by standards of the United States department of transportation. Nothing in this subsection affects the requirement in subsection 1 for a lapbelt in the driver's seating position.
3. In addition to any other requirements, all schoolbuses manufactured or assembled after July 31, 2015, must have each seat equipped with lap-type safety belts.

SB 2315

2.6.15

1. B

4. The department may except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections 1 and 2 when compliance would be impractical.
- 4.5. No person may install, distribute, have for sale, offer for sale, or sell any belt for use in motor vehicles, including schoolbuses, unless it meets current minimum standards and specifications of the United States department of transportation.
- 5.6. Every owner shall maintain belts and assemblies required by this section in proper condition and in a manner that will enable occupants to use them."

Renumber accordingly

Member of the board

2.6.15
#2

History - why is league involved

- ~~Atypical~~ - contractors in private market
- premiums soaring for pol subs
 - seat on the board

NDIRF - not typical ins comp.

Conferment of benefits

~~good stewards~~ training
good practices - safety

Effect of change in cogs ^{500,000 to}
^{3 million 6X}

- more litigation
- higher settlements

Raffle tickets example

- unknown effect on premiums
- pol. subs pay ~~the~~
- can't charge what is in pipeline.
 - tail effect
 - length of lawsuits

in-line to many other states

- study this. but delay until at least 2016 - can't change premiums now

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

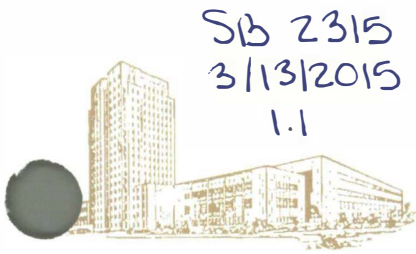
Page 1, line 18, replace "three" with "one"

Page 1, line 19, overstrike "injury to three"

Page 1, line 19, remove "thirteen"

Page 1, line 19, overstrike "or more persons during" and insert immediately thereafter "any
number of claims arising from"

Renumber accordingly



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Tom Campbell

District 19
15135 County Road 11
Grafton, ND 58237-8802
Cell: 701-520-2727
tomcampbell@nd.gov

COMMITTEES:

Industry, Business and Labor
Transportation

March 13th, 2015

Chairman Klemin and committee members;

I am Senator Tom Campbell, bringing to you SB 2315.

This bill relates to the tragic train/bus accident in Larimore a few weeks ago. There were six families and a total of fourteen people directly impacted by the accident. One family had three children in the accident and another family had four children in it. The bus driver, who was also a teacher, and one student died in the accident.

Two students were not taken to the hospital and to my knowledge, that family has incurred minimal expenses. Of the other students, several were dismissed within a few days, two were airlifted to Minneapolis, one was airlifted to Fargo and the others stayed in Grand Forks with a variety of injuries. Thankfully, all are now out of the hospital and have returned to school.

My concern today cannot help the victims of this accident but hopefully protect any future accidents with a higher level of protection.

Requesting you to consider raising the liability cap on the ND Insurance Reserve Fund NDIRF from the current \$500,000 to \$1,000,000. This has not been adjusted since the mid 1970's. Many business and farms have liability insurance that far exceeds this \$500,000 outdated level. I believe raising the cap would help solve the issue and concerns many of my colleagues have with setting precedence for any future accidents.

The ND Highway Patrol has completed the investigation of this accident and the conclusions are no evidence the driver fell ill before the crash and no mechanical bus problems.

Thank you
Senator Tom Campbell

SB 2315
3/13/2015
2.1

March 13, 2015

HOUSE POLITICAL SUBDIVISIONS COMMITTEE
SB 2315

CHAIRMAN KLEMIN AND MEMBERS OF THE COMMITTEE

For the record my name is Blake Crosby. I am the Executive Director of the North Dakota League of Cities, representing the 357 cities across the State, and I am also a member of the North Dakota Insurance Reserve Fund Board of Directors.

The League is in support of engrossed SB 2315 at the \$1 million level. We understand there will be some minimal premium increases but when weighed against the increase in coverage we are comfortable.

On behalf of the North Dakota League of Cities, I ask for a Do-Pass on SB 2315.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.