

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1231

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Deanna Hall  
Operator's Signature

10/2/03  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1231

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Diana Hall  
Operator's Signature

10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1231

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/20/03

Tape Number	Side A	Side B	Meter #
3		x	1.2-33.2
Committee Clerk Signature <i>Justin Hammer</i>			

Minutes: **Chair Kelser** opened the hearing on HE 1231.

**Jim Poolman**, North Dakota Insurance Department, briefed the committee on the merits and necessity of this insurance fraud legislation. He distributed a letter of support from Howard Goldblatt, the Director of Government Affairs for the Coalition Against Insurance Fraud headquartered in Washington, D.C.

Replying to a question from **Rep. Froseth** about appropriations for staffing and implementing this legislation, **Poolman** said the Insurance Regulatory Trust Fund would provide the moneys necessary for marketing the fraud unit to the citizens of North Dakota. As far as staffing, the equivalent of four full time positions will be allocated internally.

**Rep. Klein**: Don't you need a fiscal note?

**Poolman** replied that they weren't asked for one when they submitted the bill.

**Froseth**: You don't anticipate any increase in fees?

**Poolman**: No. Our department raises far more than we spend.

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10/2/03  
Date

Page 2  
House Industry, Business and Labor Committee  
Bill/Resolution Number 1231  
Hearing Date 1/20/03

**Poolman** deferred **Rep. Ekstrom's** question regarding "any authorized agencies" to his legal staff.

**Doug Holloway**, Deputy Insurance Commissioner, presented testimony and a proposed amendment. (See attached) re: **Rep. Ekstrom's** question, "Any authorized agency" is a catchall term to include any federal, state or local authority in order to streamline the document.

Replying to **Rep. Thorpe's** question about total number of fraud claims, **Holloway** stated that he didn't know offhand. That's why the education campaign is so important.

**Laurie Wolfe**, Director of Agent Licensing and Investigations, ND Insurance Dept, interjected that there are only a handful at present but the Insurance Department needs the authority to investigate.

**Rep. Kasper** inquired about a statute of limitations on this type of fraud for agents and the insured. **Wolfe** answered that under existing law there is no statute but there are limitations in this legislation.

**Rep. Boe** asked about confidentiality of reports and the possibility that people might call the Fraud Unit telephone number to be a nuisance to others. **Holloway** said they would weed through the malice and false leads but that this type of malfeasance can happen under present statute too.

**Chair Kelser** stated that intentional reports of false information should be addressed in this bill.

In reply to **Rep. Thorpe's** question, **Poolman** stated that fraud investigations would be patterned after those conducted the Workers Compensation Bureau.

**Rep. Froseth** asked whether records are released after conviction. **Poolman** replied that if a criminal action results in conviction, yes, those records do become public record.

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Bill/Resolution Number 1231  
Hearing Date 1/20/03

**Marilyn Foss**, general counsel for the North Dakota Bankers Association, appeared in support of HB 1231 to provide testimony and a proposed amendment to clarify language regarding banking.  
(see attached)

**Jo Zschomler**, Director of OMB Management Division, appeared in support of HB 1231 and provided testimony and a proposed amendment (see attached)

**Kent Olson**, Executive Director for the North Dakota Professional Insurance Agents Association, provided oral testimony in support of HB 1231.

**Pat Ward**, representing State Farm Insurance Company, provided oral testimony in support of HB 1231.

As there was no one present to testify in opposition to HB 1231, **Chair Keiser** closed the hearing.

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*Doreen G. Ball*  
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10/2/03  
Date

38262.0101  
Title.

Prepared by the Legislative Council staff for  
Representative Kasper  
February 3, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1231

Page 1, line 2, after the third comma insert "and" and remove ", and 26.1-02.1-12"

Page 3, line 3, replace the underscored colon with "pay"

Page 3, line 4, remove "a. Pay"

Page 3, line 6, replace "b. Pay" with "pay"

Page 3, line 8, replace "c. Pay" with "pay"

Page 3, line 9, replace "d. Act" with "act" and after the second underscored period insert "The term does not include a debt cancellation contract between a bank and debtor or between a savings association and debtor and does not include a debt suspension contract between a bank and debtor or between a savings association and debtor."

Page 3, line 15, after "association" insert ", the risk management fund, a bank or savings association as a party to a debt cancellation contract or debt suspension contract."

Page 7, remove lines 3 through 8

Page 7, line 9, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 7, line 21, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 23, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 25, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 8, after line 26, insert:

"5. Any investigative information gathered under section 26.1-02.1-06 or 26.1-02.1-08 is criminal investigative information and may not be disclosed except as provided under section 44-04-18.7."

Page 8, line 27, replace "26.1-02.1-09" with "26.1-02.1-08"

Page 8, line 29, replace "26.1-02.1-09" with "26.1-02.1-08"

Page 10, line 5, replace "26.1-02.1-10" with "26.1-02.1-09"

Page 10, line 7, replace "26.1-02.1-10" with "26.1-02.1-09"

Page 10, line 15, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 17, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 27, replace "26.1-02.1-12" with "26.1-02.1-11"

Page 10, line 29, replace "26.1-02.1-12" with "26.1-02.1-11" and replace "deemed" with "determined"

Renumber accordingly

Page No. 2

38262.0101

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Dennis G. Ball  
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10/2/03  
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2003 HOUSE APPROPRIATIONS

HB 1231

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1231

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-13-03

Tape Number	Side A	Side B	Meter #
1	X		-7
Committee Clerk Signature <i>Chris I. Nye</i>			

Minutes:

**Chairman Svedjan** Opened HB 1231 for discussion. A quorum was present.

**Rep. Kaiser** Spoke in favor of creating an Insurance Fraud Division. This is the 2nd largest crime. 45 state currently have them. In theory, the Bureau of Criminal Investigations should investigate this. This bill establishes a unit like Worker's Compensation. This will act as a deterrent to crime.

**Rep. Timm** Does this bill deal with just consumers, or does it include insurance agents?

**Rep. Kaiser** It should deal with both.

**Rep. Delzer** \$150,000 appropriation, that is all for marketing? If that is all for marketing, how will they do everything else

**Rep. Kaiser** They maintain that they can operate with this amount in their agency.

**Rep. Delzer** Why were amendments not put on in committee?

**Rep. Kaiser** I screwed up, we ran out of time in committee.

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*Doreen Baller*  
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Date

Page 2  
House Appropriations Committee  
Bill/Resolution Number HB 1231  
Hearing Date 02-13-03

**Rep. Wald** On page 30, section 4, shouldn't we further amend this to give independent adjusters immunity from this?

**Rep. Kaiser** The department can respond to that.

**Rep. Aarsvold** How do we handle these illegal behaviors now?

**Rep. Kaiser** We turn them over to the BCI, but they don't get put high enough on the priority list to get attention due to the meth lab cases.

**Rep. Kempenich** Is one investigator able to handle all of this?

**Rep. Kaiser** For now it should be able to.

**Laurie Wolf, Director of Licensing**

**Rep. Delzer** Section nine gives police officer status to these insurance enforcers. Who is qualified to do this?

**Wolf** It would be allowed for someone to get training for that.

**Rep. Kempenich** Can one person cover all of these duties?

**Wolf** We do have some positions to allot toward this. We don't know if more are needed.

**Rep. Carlisle** Why wasn't this introduced as an agency bill and isn't there a reduction to the general fund by this?

**Wolf** The Insurance Commissioner, Jim Poolman, made this decision.

**Don Holloway, Deputy Insurance Commissioner**

**Rep. Timm** Are there a lot of problems there?

**Wolf** We have no supena power and can't take settlements and we have to receive reports from many other sources.

**Rep. Wald** We're forgetting what we are here for.

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Page 3  
House Appropriations Committee  
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Hearing Date 02-13-03

**Rep. Koppleman** Doesn't this expand the mission of the department?

**Wolf** We are required to gather information, but we can't carry that any further.

**Rep. Gulleason** So do you feel it is not working and what is the turnaround times?

**Wolf** It is not working.

**Rep. Timm** Will you arrest someone, for example if they do what Rep. Kaiser said?

**Wolf** No, we'd conduct an investigation with the company and adjuster to determine if it should be paid. We have no authority to bring charges.

**Rep. Timm** Don't you just deny the claim?

**Wolf** Some companies have adjusters who handle claims and they have an insurance fraud division. Those departments don't work in cooperation with the BCI.

**Rep. Timm** If I have a car that has hail damage and I have it adjusted. If the damage is over the salvage value, and the adjuster lets them keep the car, isn't that fraud?

**Wolf** We would really have to investigate that act.

**Rep. Wald** That isn't fraud since there is a negotiation on the part of the claim holder and Rep. Timm.

**Wolf** Explained the amendments that were put on in committee.

**Chairman Svedjan** Do all of the amendments fit together?

**Wolf** I believe they do. The second part deals with the Risk Management Fund. It is not part of this bill.

**Holloway** Our intention on the second set of amendments is not to get prosecutorial authority, so we removed that section.

**Rep. Wald** Do we have to adopt these amendments in committee?

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**Holloway** Yes.

**Rep. Wald** I move all three amendments. 2nd by **Rep. Monson**

**Rep. Skarphol** On the first page, the reference to page 7, it says "remove lines 3-8", I think that is appropriate, but if you go to the last page, the first reference says to remove lines 1-6. I think it would be appropriate to remove that from the amendments.

**Chairman Svedjan** The motion is right as it is.

**Rep. Aarsvold** With these amendments it may overstep our bounds.

**Rep. Skarphol** The chairman of the Industry, Business, and Labor Committee wanted us to do this.

**Motion carries and amendments are adopted.**

**Rep. Delzer** I have problems with section 9 of the bill, police officer status. I move to remove section 9 of the bill. 2nd **Rep. Timm**.

**Rep. Timm** Lines 9 and 10, they give investigators complete police powers.

**Wolf** Maybe we need further clarification on this, but police officer status is looked at comparable to the Worker's Compensation peace officer status.

**Rep. Glassheim** There is a very narrowly conferred authority.

**Rep. Delzer** Yes, it is intended, but the language doesn't say that. It is written too wide open.

**Rep. Carlisle** I agree that we should get back to making money and not policy decisions.

**Wolf** The enforcement would be limited to our investigation.

**Motion Fails 10 yea, 13 nay.**

**Rep. Glassheim** Following **Rep. Carlisle's** question. I want more information how this money flows to the general fund.

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Page 5  
House Appropriations Committee  
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Hearing Date 02-13-03

**Chairman Svedjan** Any funds in the Insurance Regulatory Trust Fund in excess of 1 million dollars flow into the general fund.

**Rep. Glassheim** How much is in the fund now?

**Knudson** The executive budget includes 2.7 million dollars in general fund revenues that will be deposited from the Insurance Regulatory Trust Fund during the next biennium.

**Rep. Glassheim** I move to delete the section with \$102,000 in it, it is section 13, page 11.

**2nd by Rep. Gulleason.**

**Rep. Wald** -to OMB- All of the moneys put into the Insurance Regulatory Trust Fund, that all of the premium tax goes into the general fund.

**Knudson** Correct.

**Rep. Wald** So we're not invading any of the premium tax dollars expected by the state of North Dakota. This is money that is generated by the department and that is why it is a stand-alone agency. I don't see where this hits the general fund.

**Motion Passes**

**Rep. Brusegaard** I move a Do Pass as Amended.

**Rep. Skarphol** I want a roll-call vote on the amendments. May I ask a question of the young lady first? How much money do you think this Fraud Investigation Unit will generate?

**Wolf** We don't know.

**Roll Call vote on the amendments pass 12 - 11.**

**Rep. Brusegaard** I move a Do Pass As Amended. 2nd by Rep. Koppleman.

**Rep. Carlson** It's interesting how we do things. We give someone a dog and take the teeth out.

That's just what we did. We were fiscally responsible and we just wrecked the bill.

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House Appropriations Committee  
Bill/Resolution Number HB 1231  
Hearing Date 02-13-03

**Rep. Brusegaard** Let's keep it alive in the Senate.

**Rep. Gulleon** There is a defining difference between Worker's Compensation and Insurance Fraud. Worker's Compensation acts as an insurance agency. In this case, insurance companies have the highest interest in fraud. I see this as two different things.

**Rep. Koppleman** If the bill goes to the Senate IBL, does they have the authority to put the money back in?

**Chairman Svedjan** Of course.

**Rep. Monson** Without the appropriation it will never hit the Senate Appropriations Committee.

**Motion Fails 10 - 12 - 1**

**Rep. Skarphol** I move to put section 12 back in the bill. 2nd by someone unannounced.

**Rep. Glassheim** Taking the money out doesn't gut the bill. This money was for advertisement.

**Rep. Koppleman** Glassheim is correct, but the money for public information is important.

**Motion Fails 11 - 11.**

**Rep. Skarphol** I move a Do Not Pass. There was not second.

**Rep. Kempenich** I move a Do Pass As Amended. 2nd by Rep. Glassheim.

**Rep. Wald** I'm just glad the TV cameras aren't in the room this morning.

**Chairman Svedjan** Not as glad as I am.

**Motion Carries 13 - 10. Rep. Wald will carry this bill.**

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10/2/03  
Date

38262.0103  
Title.0200

Prepared by the Legislative Council staff for  
House Appropriations  
February 13, 2003

VR  
2/14/03  
1082

HOUSE AMENDMENTS TO HOUSE BILL NO. 1231 APP 2-17-03

Page 1, line 2, after the third comma insert "and" and remove ", and 26.1-02.1-12"

Page 1, line 6, after the first semicolon insert "and" and remove "; and to provide an appropriation"

HOUSE AMENDMENTS TO HB 1231 APP 2-17-03

Page 3, line 3, replace the underscored colon with "pay"

Page 3, line 4, remove "a. Pay"

Page 3, line 6, replace "b. Pay" with "pay"

Page 3, line 8, replace "c. Pay" with "pay"

Page 3, line 9, replace "d. Act" with "act" and after the second underscored period insert "The term does not include a debt cancellation contract between a bank and debtor or between a savings association and debtor and does not include a debt suspension contract between a bank and debtor or between a savings association and debtor."

Page 3, line 15, after "association" insert ", the risk management fund, a bank or savings association as a party to a debt cancellation contract or debt suspension contract."

HOUSE AMENDMENTS TO HB 1231 APP 2-17-03

Page 7, remove lines 3 through 8

Page 7, line 9, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 7, line 21, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 23, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 25, replace "26.1-02.1-07" with "26.1-02.1-06"

HOUSE AMENDMENTS TO HB 1231 APP 2-17-03

Page 8, after line 26, insert:

"5. Any investigative information gathered under section 26.1-02.1-06 or 26.1-02.1-08 is criminal investigative information and may not be disclosed except as provided under section 44-04-18.7."

Page 8, line 27, replace "26.1-02.1-09" with "26.1-02.1-08"

Page 8, line 29, replace "26.1-02.1-09" with "26.1-02.1-08"

HOUSE AMENDMENTS TO HB 1231 APP 2-17-03

Page 10, line 5, replace "26.1-02.1-10" with "26.1-02.1-09"

Page 10, line 7, replace "26.1-02.1-10" with "26.1-02.1-09"

Page No. 1

38262.0103

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HOUSE AMENDMENTS TO HB 1231

APP 2-17-03

2 of 2

Page 10, line 15, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 17, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 27, replace "26.1-02.1-12" with "26.1-02.1-11"

Page 10, line 29, replace "26.1-02.1-12" with "26.1-02.1-11" and replace "deemed" with "determined"

HOUSE AMENDMENTS TO HF 1231

APP 2-17-03

Page 11, remove lines 3 through 7

Renumber accordingly

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38262.0103

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Danina Halladay  
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10/2/03  
Date



REPORT OF STANDING COMMITTEE (410)  
February 17, 2003 10:15 a.m.

Module No: HR-30-2886  
Carrier: Wald  
Insert LC: 38262.0103 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1231: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 10 NAYS, 0 ABSENT AND NOT VOTING). HB 1231 was placed on the Sixth order on the calendar.

Page 1, line 2, after the third comma insert "and" and remove ", and 26.1-02.1-12"

Page 1, line 6, after the first semicolon insert "and" and remove "; and to provide an appropriation"

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Page 7, line 23, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 25, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 8, after line 26, insert:

"5. Any investigative information gathered under section 26.1-02.1-06 or 26.1-02.1-08 is criminal investigative information and may not be disclosed except as provided under section 44-04-18.7."

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(2) DESK, (3) COMM

Page No. 1

HR-30-2886

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Operator's Signature

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10/2/03

REPORT OF STANDING COMMITTEE (410)  
February 17, 2003 10:15 a.m.

Module No: HR-30-2886

Carrier: Wald

Insert LC: 38262.0103 Title: .0200

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Page 11, remove lines 3 through 7

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

HR-30-2886

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2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1231

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1231

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-19-03

Tape Number	Side A	Side B	Meter #
1	xxx		0-3435
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the hearing on HB 1231. All Senators were present.

HB 1231 relates to insurance fraud.

**Testimony in support of HB 1231**

**Representative Keiser** introduced the bill. HB 1231 allows the insurance department to set up a fraud unit. It is similar to the Worker's Comp fraud unit. Insurance is in a hard market. There are some leaving the state. This unit has paid off for state's that use it. After the hail storm in June of 2001 there was a lot of fraud. People didn't have coverage and after the storm, acquired coverage and turned in a claim. What we have been doing with them is report them to the Attorney General's Office and the Bureau of Criminal Investigation. Those departments are primarily focused on drug control. By redirecting this into the insurance department, we will take some of the load off of BCI and AG's office. The concept of a fraud unit will pay off for the state and the policy holders.

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*Doreen Hall*  
Operator's Signature

*10/2/03*  
Date

Page 2  
Senate Industry, Business and Labor Committee  
Bill/Resolution Number 1231  
Hearing Date 03-19-03

**Jim Poolman**, Insurance commissioner, spoke in support of the bill. Our department requested this bill. 45 states currently have a fraud bureau housed within insurance department. The BCI now does not have the insurance expertise to go after those claims. Also there are much bigger priorities like meth, that should be at the top of their list. We will be able to staff this unit with internal savings and current employees.

**Senator Heitkamp**: So up until now, no body has been checking on fraud?

**Jim Poolman**: Any sort of fraud investigation was done with the BCI.

**Senator Heitkamp**: The person who will be doing this has the same power as someone from BCI?

**Jim Poolman**: We would go out and hire them with the internal savings.

**Senator Mutch**: Don't insurance companies investigate fraud?

**Jim Poolman**: It is not always impartial from a neutral party.

**Senator Heitkamp**: The person that loses is the insurance company.

**Jim Poolman**: No, the consumer is because if they company is paying out, the premiums will go up and effect the consumer.

**Laurie A. Wolf**, Director of Agent Licensing and Investigations of the North Dakota Insurance Department, spoke in support of the bill. See written testimony.

**Senator Heitkamp**: Have we tried this before?

**Laurie**: I have worked here 14 years, and never in that time.

**Senator Klein**: 45 states specifically make this a crime, so would we be 46th?

**Laurie**: No, we are included in the penalty law right now, but not by having our own fraud unit.

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Date

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1231

Hearing Date 03-19-03

**Pat Ward**, ND Domestic Insurance, spoke in support of the bill. He states that some insurance companies are too small to have a fraud unit. It is not affordable.

**Senator Heitkamp**: Could you give me an example of a company that wouldn't be able to afford this fraud unit?

**Pat**: Some of the companies that I represent. Some of the bigger companies like State Farm and American Family can afford to and do.

**Kent Olson**, Director of PIA of North Dakota, spoke in support of the bill. We support this bill because the current fraud statute isn't being used as well as it should be.

**John Michaels**, Farmers Insurance, spoke in support of the bill.

**Brent Edison**, Worker's Compensation, spoke in support of the bill. This fraud unit in the worker's compensation agency and has saved them appx. 20 million dollars

#### Neutral testimony

**Greg Tschider**, Credit Union League, was neutral. See written testimony.

**Senator Heitkamp**: Would you support it if we amended it?

**Greg**: Yes.

The hearing is closed. No action was taken at this time.

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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1231

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-24-03

Tape Number	Side A	Side B	Meter #
1	xxx		0-315
Committee Clerk Signature <i>Lisa L. Berkman</i>			

Minutes: Chairman Mutch opened the committee discussion on HB 1231. All Senators were present. HB 1231 relates to insurance fraud.

The amendments proposed by Greg Tschider were read by the committee.

Senator Klein moved to adopt the amendments. Senator Krebsbach seconded.

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

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

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

Carrier: Senator Krebsbach

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*10/2/03*  
Date

PROPOSED AMENDMENT TO ENGROSSED  
HOUSE BILL NO. 1231

Page 3, line 8, after the first "debtor" insert ", between a credit union and debtor, or"

Page 3, line 17 after "bank" insert ", credit union,"

Renumber accordingly

RESPECTFULLY SUBMITTED BY  
Greg Tschider  
North Dakota Credit Union League

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Doreen Holm  
Operator's Signature

10/2/03  
Date



38262.0201  
Title.0300

Adopted by the Industry, Business and Labor  
Committee

March 24, 2003

*J3*  
3-24-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1231

Page 3, line 8, after the first "debtor" insert ", between a credit union and debtor."

Page 3, line 9, after "debtor" insert ", between a credit union and debtor."

Page 3, line 17, after "bank" insert ", credit union."

Renumber accordingly

Page No. 1

38262.0201

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*Doreen Hall*  
Operator's Signature

*10/2/03*  
Date

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

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

Senate 1231 Committee

☐ Check here for Conference Committee

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

Action Taken Adopt Amendments - Greg Tschider

Motion Made By Klein Seconded By Krebsbach

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

Total (Yes) 7 Click here to type Yes Vote No 0 Click here to type No Vote

Absent 0

Floor Assignment Click here to type Floor Assignment Voice Carry

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

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Dan Marshall 10/2/03  
Operator's Signature Date

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

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

Senate \_\_\_\_\_ 1231 \_\_\_\_\_ Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Klein Seconded By Krebsbach

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

Total (Yes) Click here to type Yes Vote 7 No Click here to type No Vote 0

Absent 0

Floor Assignment Click here to type Floor Assignment Krebsbach

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

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Donna Hallbach 10/2/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
March 24, 2003 4:18 p.m.

Module No: SR-45-5804  
Carrier: Krebsbach  
Insert LC: 38262.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

HB 1231, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1231 was placed on the Sixth order on the calendar.

Page 3, line 8, after the first "debtor" insert ". between a credit union and debtor."

Page 3, line 9, after "debtor" insert ". between a credit union and debtor."

Page 3, line 17, after "bank" insert ". credit union."

Renumber accordingly

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Deanna Bell  
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10/2/03  
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2003 TESTIMONY  
HB 1231

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Danina Hall  
Operator's Signature

10/2/03  
Date

PROPOSED AMENDMENT TO HB 1231

Page 3, line 9, after "." Insert " The term does not include a debt cancellation contract or a debt suspension contract between a bank or saving association and debtor."

Page 3, line 15, remove "or" and instead insert ";

Page 3, line 16, after "association" insert ", or a bank or savings association as a party to a debt cancellation contract or debt suspension contract"

Renumber accordingly

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Doreen H. Ball  
Operator's Signature

10/2/03  
Date

January 20, 2003

**PROPOSED AMENDMENTS TO HOUSE BILL NO. 1231**

Page 1, line 2, after "26.1-02.1-10" insert "and" and remove "and 26.1-02.1-12"

Page 7, remove lines 1 through 6

Page 7, line 7, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 7, line 9, replace "26.1-02.1-07" with "26.1-02.1-06"

Page 7, line 21, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 7, line 23, replace "26.1-02.1-08" with "26.1-02.1-07"

Page 8, line 27, replace "26.1-02.1-09" with "26.1-02.1-08"

Page 8, line 29, replace "26.1-02.1-09" with "26.1-02.1-08"

Page 10, line 5, replace "26.1-02.1-10" with "26.1-02.1-09"

Page 10, line 7, replace "26.1-02.1-10" with "26.1-02.1-09"

Page 10, line 15, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 17, replace "26.1-02.1-11" with "26.1-02.1-10"

Page 10, line 27, replace "26.1-02.1-12" with "26.1-02.1-11"

Page 10, line 29, replace "26.1-02.1-12" with "26.1-02.1-11"

Renumber accordingly

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Deanna Holbrook  
Operator's Signature

10/2/03  
Date



## Coalition Against Insurance Fraud

1012 14th Street, N.W., Suite 200  
Washington, D.C. 20005  
202.393.7330  
202.393.7329 fax  
www.insurancefraud.org

January 17, 2003

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\*\*\*\*\*  
Dennis Jay  
Executive Director

A national coalition of consumers,  
government agencies and insurers  
dedicated to combating all forms of  
insurance fraud through public  
information and advocacy.

The Hon. George Kelser  
North Dakota House of Representatives  
State Capitol  
600 E. Boulevard Avenue  
Bismarck, ND 58505

Dear George

On behalf of the Coalition Against Insurance Fraud I am writing in support of your bill, House Bill 1231, that would create the crime of insurance fraud and establish an insurance fraud bureau.

We believe this legislation will greatly enhance North Dakota's battle against insurance fraud — a cause that is in the best interest of all the residents of North Dakota.

The bill specifically makes insurance fraud a specific crime — following 45 other states including neighboring Minnesota, South Dakota and Montana. It also places the insurance department as the focal point for the investigation of insurance fraud.

Insurance fraud is an insidious hidden tax paid by the insurance consumers in North Dakota. Your legislation brings greater emphasis to help lessen the effect of fraud on the cost of insurance paid by North Dakota consumers.

We believe the fight against insurance fraud must be a partnership among industry, government and consumers for it to be successful. House Bill 1231 is such an effort. We strongly support its passage as introduced.

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Date




Page 2

The coalition is a national broad-based organization of consumer groups, insurance companies and government organizations dedicated to combating all forms of insurance fraud. We have been actively involved in seeking stricter laws that have been enacted in several states. House Bill 1231 tracks the coalition's model insurance fraud law and we believe its passage will benefit everyone in North Dakota.

Please let me know if you have any questions.

Sincerely,

  
Howard Goldblatt  
Director of Government Affairs

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Operator's Signature

10/2/03  
Date

TESTIMONY OF MARILYN FOSS PROPOSING AMENDMENTS TO HB 1231

Mr. Chairman, members of the IBL Committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association and am appearing before you to propose an amendment to this bill to make it clear that the proposed definitional changes are not intended to include debt cancellation contracts and debt suspension contracts within the definition of insurance. Traditionally, insurance requires a third party indemnitor which agrees to pay or reimburse another for a loss incurred in connection with a defined risk; debt cancellation or suspension contracts between a lender and debtor address the conditions under which a debt may be cancelled or payments suspended; they are not insurance because they do not involve a third party indemnity arrangement. Debt cancellation and debt suspension contracts are banking products and are supervised by bank regulators. There are extensive, federal regulations in place to govern them. The regulations address safety and soundness, unfair practices and disclosure.

We understand the drafters of HB 1231 bill did not intend to include these banking products within the definition of insurance or to regulate banks and savings associations which are parties to these types of contracts as insurers. However, it appears to me that the definitions of "insurance" and "insurer" which are set forth in the bill may be read to cover the products because they may be regarded as "grant[ing] a determinable benefit to another in connection with ascertainable risk contingencies[ ]" as provided in 4(b) of the definition of insurance or be an act which falls within the other acts which are now defined as insurance under proposed 26.1-02.1-01(4).

*Deanna Hallmark*  
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10/2/03  
Date

Accordingly, NDBA is proposing amendments to make it clear that banks and saving associations which are parties to debt cancellation or debt suspension contracts are not insurers and the contracts themselves are not insurance.

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10/2/03  
Date

HOUSE BILL NO. 1231

**Presented by:** Douglas L. Holloway  
Deputy Commissioner  
North Dakota Insurance Department

**Before:** Industry, Business and Labor Committee  
Representative George Kelser, Chairman

**Date:** January 20, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good afternoon, my name is Doug Holloway, Deputy Commissioner with the North Dakota Insurance Department. I stand before you today to testify in support of House Bill No. 1231, relating to Insurance Fraud.

First, let me apologize for complicating matters here at the outset. We wish to offer an amendment to the bill, to remove section 5 and to renumber accordingly. Section 5 is located on page 7 of the Bill before you, and when read in conjunction with the remainder of the Bill, you will realize, it is a mere redundancy. But worse than that, it created some minor confusion, as some people feared it could be read to imply the insurance department may actually prosecute these crimes in court. That was not our intention or desire. Removing Section 5, I believe, should clarify matters.

The remainder of House Bill 1231 is very close to verbatim the National Association of Insurance Commissioner's Model Law on Insurance Fraud Prevention.

it includes in Section 1 some added breadth and clarification to the definitions section of the current NDCC §26.1-02.1-01, with the intention of closing loopholes. If we are going to protect the public from those who would defraud them – directly or indirectly – then we do the public a disservice by having too-narrow definitions of insurance fraud. It is the evil-doers and their crafty lawyers who benefit from narrow definitions.

Section 2 prohibits people from committing insurance fraud and from interfering with investigations and enforcement. Consistent with Federal law, it disqualifies persons who have been convicted of felonies involving dishonesty or breach of trust from engaging in the business of insurance.

**Section 3** expands our current law, to grant immunity to people who report insurance fraud to the Insurance Department under this Bill.

**Section 4** is the penalties section. Under section 4, the current penalties section of the law remains intact, with the exception of the prohibition against probation or deferred impositions of sentences. We believe the fight against Insurance Fraud may occasionally require discretion on the part of prosecutors and judges. Cases are oftentimes difficult to prove, and it occasionally may benefit the public to allow prosecutors to strike deals. Where it may be difficult to prove the crime, it may be better to have the defendant plead guilty and agree to pay restitution, than to have the defendant win an outright acquittal in court. The current law, we believe, might unnecessarily limit the ability of prosecutors to strike an agreement in return for a guilty plea. We have excellent prosecutors and judges in this State, whom we trust will not abuse their discretion in determining whether probation is appropriate.

**Section 5**, as I mentioned, we would ask to be deleted for clarification purposes.

**Section 6** provides that companies and producers are required to report insurance fraud to the Department, civilians are permitted to do so, and in any event, by reporting insurance fraud to the Department, people should not be violating the privacy laws. Technically, this last paragraph is not necessary, because Gramm-Leach-Bliley does not and was never intended to stand in the way of regulatory or criminal investigations; however, for people who are especially wary of potentially violating the privacy law, we believe it is appropriate to reiterate that, here.

**Section 7** provides for the confidentiality of documents and information received in the course of an insurance fraud investigation. Allowing such information to become open records, or for confidential or privileged information to lose its confidentiality or privilege, could very much have a chilling effect on people's willingness to participate in an investigation or to report insurance fraud. Furthermore, if someone were to be falsely accused of impropriety, it could be extremely damaging to that person to have the false accusations made public under our open records law. As a matter of due process, we believe section 7 is a critical component of this bill.

**Section 8** is the heart of this Bill. This section provides for the creation of a Fraud Unit within the North Dakota Insurance Department, to conduct insurance fraud investigations. Under current law, the insurance department would have authority only to obtain information from one of our licensees – namely, insurance companies or agents. Under Section 8, the Department would be afforded

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10/2/03  
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subpoena power, which as an extreme important tool which the Department currently lacks, to obtain information from non-licensees.

Further, if the Department chose to develop the unit to this extent, Sections 8 and 9 would allow the fraud unit to execute search warrants and arrest warrants. While this is certainly groundbreaking for North Dakota, it is part of the NAIC model and consistent with what is in place in many states. More and more of the State's law enforcement resources and energies are expended fighting the Methamphetamine problem and other such issues; we can assist them with their workloads by investigating insurance fraud, ourselves, through the Fraud Unit.

Section 10 explains the Insurance Department Fraud Unit does not have exclusive jurisdiction over insurance fraud; other law enforcement authorities or regulatory agencies may still investigate and prosecute insurance fraud. Further, the Department may still pursue administrative remedies such as license suspensions and revocations, in addition to the criminal prosecution.

Section 11 grants the Commissioner rulemaking authority to enforce this chapter.

Section 12 repeals those sections of the current chapter preempted by this bill.

Finally, Section 13 provides for a \$150,000 appropriation for the biennium, primarily for the purpose of educational campaign. Insurance Fraud is not well-publicized. It is still regarded by a lot of people as a "victimless crime." We would like to help change that perception through a public awareness campaign.

That concludes my testimony on House Bill 1231. If there are any questions, I would be happy to try to answer them.

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10/2/03  
Date

**TESTIMONY BY JO ZSCHOMLER, DIRECTOR**

**OMB Risk Management Division**

**Industry, Business and Labor**

**January 20, 2003**

Mr. Chairman, and members of the House Industry, Business and Labor Committee, my name is Jo Zschomler. I am the Director of the Risk Management Division of OMB. I appear today to offer an amendment to House Bill 1231.

The 1995 Legislature passed the Tort Claims Act that established the Risk Management Fund. Our Division administers the Fund to pay tort claims and costs associated with lawsuits filed against the State and state employees, activities that arguably fall within the definition of subsection 4 of Section 1 on page 3, lines 3 through 9 of HB 1231.

Subsection 5 of Section 1 of HB 1231 defines an "Insurer" as "a person entering into arrangements or contracts of insurance or reinsurance and who agrees to perform any of the actions set forth in subsection 4, whether the person has or is required to have a certificate of authority or denies being an insurer. The term does not include the North Dakota life and health insurance guaranty association or the North Dakota insurance guaranty association." We respectfully request that the Risk Management Fund be added as an entity not included under the term.

In November of 1995 Attorney General Heitkamp issued an opinion that the Risk Management Fund, as a program of self-insurance for a single entity, is not insurance or a self-insurance pool, the administrator of the Fund is not an insurance company, an insurer, or engaged in the business of insurance as those terms are generally used in

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*Deanna Holbrook*  
Operator's Signature

10/2/03  
Date

N.D.C.C. title 26.1. General Heitkamp determined the Risk Management Fund is a risk retention pool.

In order to ensure there is no uncertainty about whether or not the Risk Management Fund is an insurer or a risk retention pool, we request your support of the amendment attached to my testimony that will add the Risk Management Fund to the entities excluded from House Bill 1231.

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Deanna Hall  
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Date



## PROPOSED AMENDMENT TO HOUSE BILL NO. 1231

Page 3, line 15, replace or with a comma

Page 3, line 16, after association insert "or the risk management fund."

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# TESTIMONY IN REGARDS TO ENGROSSED

## *Neutral* HOUSE BILL NO. 1231

GREG TSCHIDER, ND CREDIT UNION LEAGUE

Mr. Chairman and Members of the Senate Industry, Business, and Labor Committee, I am Greg Tschider and I represent the North Dakota Credit Union League.

Credit unions, like banks, are offering or desire to offer, debt cancellation and debt suspension contracts. The North Dakota Insurance Department has determined that those contracts are not insurance. However, the definition section of this bill has caused banks and credit unions to feel insecure that these contracts are not in fact insurance products.

My appearance on this bill is to request an amendment to the bill which resulted from an error that occurred in the House.

When this bill was presented to the House IBL Committee, a substantial number of amendments were offered. The North Dakota Bankers Association offered an amendment in regards to debt cancellation contracts and debt suspension contracts. The North Dakota Credit Union League offered an amendment in regards to credit unions and those contracts.

The Chairman of the House IEL assigned the task of analyzing and consolidating the proposed amendments. The first draft submitted to the Committee failed to include credit unions in regards to the exemption language and

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*Greg Tschider*  
Operator's Signature

10/2/03  
Date

the House IBL Committee directed that another draft of amendments be presented which included credit unions. That draft was prepared, submitted to the House IBL Committee, and then forwarded to the Appropriations Committee.

Apparently the first draft, which did not include credit unions, was submitted to Appropriations and as a result, the House passed HB 1231 without the credit union language.

Therefore, the North Dakota Credit Union League respectfully requests that this Committee give a "DO PASS" on the amendment to include credit unions in regards to debt cancellation and debt suspension contracts.

PROPOSED AMENDMENT TO HB 1231

Page 3, line 9, after ",", Insert "The term does not include a debt cancellation contract or a debt suspension contract between a bank, credit union, or savings association and debtor."

Page 3, line 15, remove "or" and instead insert "."

Page 3, line 16, after "association" insert ", or a bank, credit union, or savings association as a party to a debt cancellation contract or debt suspension contract"

Renumber accordingly

RESPECTFULLY SUBMITTED BY  
Greg Tschider  
North Dakota Credit Union League

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**ENGROSSED HOUSE BILL NO. 1231**

**Presented by:** Laurie A. Wolf  
Director of Agent Licensing and Investigations  
North Dakota Insurance Department

**Before:** Senate Industry, Business and Labor Committee  
Senator Duane Mutch, Chairman

**Date:** March 19, 2003

**TESTIMONY**

Mr. Chairman and members of the committee:

Good morning, my name is Laurie Wolf, Director of Agent Licensing and Investigations with the North Dakota Insurance Department. I stand before you today to testify in support of Engrossed House Bill No. 1231, relating to insurance fraud.

**Section 1** – Adds language to expand and clarify the current definitions section of the N.D. Cent. Code § 26.1-02.1-01 including defining a fraudulent insurance act.

**Section 2** – This section states that a person may not commit a fraudulent insurance act as set out in the definitions of Section 1. It also states that a person may not interfere with an investigation or enforcement action involving insurance fraud. Consistent with federal law, it disqualifies persons who have been convicted of felonies involving dishonesty or breach of trust from engaging in the business of insurance.

**Section 3** – This section grants immunity to persons who report insurance fraud to the Insurance Department, absent malice. It also defines who is allowed under the law to receive and share information relating to insurance fraud.

**Section 4** – Under Section 4, the current penalties remain intact except that under this law a prosecutor or judge would have the discretion to recommend a probation or deferred

imposition of sentence for a criminal penalty under this Act.

**Section 5** – Requires that companies and producers report fraudulent insurance acts to the Department. It also allows any other person that may have knowledge of a possible fraudulent insurance act to report the information to the Department.

**Section 6** – Protects information provided to the Department's Fraud Unit as confidential and allows for the sharing of information with other authorized agencies. It also states that at the completion of an investigation, the information becomes a public record except for personal information such as medical information, Social Security numbers, and credit card numbers. The information exempt from public record is more fully set out in N.D. Cent. Code § 44-04-18.7.

**Section 7** – This is the heart of the bill which creates a separate Fraud Unit within the North Dakota Insurance Department to conduct insurance fraud investigations. Under the bill, the Department would be afforded subpoena and investigative powers, which are extremely important tools to investigate fraudulent insurance acts.

**Section 8** – Allows the Fraud Unit to execute search warrants and arrest warrants for a violation of criminal insurance fraud as set out in this chapter.

**Section 9** – Confirms that other law enforcement authorities or regulatory agencies may still investigate and prosecute insurance fraud.

**Section 10** – Grants the Commissioner rulemaking authority to enforce this chapter.

**Section 11** – Repeals those sections of the current chapter preempted by this bill.

That concludes my testimony on Engrossed House Bill No. 1231. If there are any questions, I would be happy to try to answer them.



## Coalition Against Insurance Fraud

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Washington, D.C. 20005  
202.393.7330  
202.393.7329 fax  
www.insurancefraud.org

March 18, 2003

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Dennis Jay  
Executive Director

A national coalition of consumers,  
government agencies and insurers  
dedicated to combating all forms of  
insurance fraud through public  
information and advocacy.

The Hon. Duane Mutch  
Chair – Senate Industry, Business  
& Labor Committee  
North Dakota Senate  
State Capitol  
600 E. Boulevard Avenue  
Bismarck, ND 58505

Dear Senator Mutch:

On behalf of the Coalition Against Insurance Fraud I am writing in support of House Bill 1231, that would create the crime of insurance fraud and establish an insurance fraud bureau.

We believe this legislation will greatly enhance North Dakota's battle against insurance fraud — a cause that is in the best interest of all the residents of North Dakota.

The bill specifically makes insurance fraud a specific crime — following 45 other states including neighboring Minnesota, South Dakota and Montana. It also places the insurance department as the focal point for the investigation of insurance fraud.

Insurance fraud is an insidious hidden tax paid by the insurance consumers in North Dakota. Your legislation brings greater emphasis to help lessen the effect of fraud on the cost of insurance paid by North Dakota consumers.

We believe the fight against insurance fraud must be a partnership among industry, government and consumers for it to be successful. House Bill 1231 is such an effort. We strongly support its passage as introduced.

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FROM Coalition Against Insurance Fraud

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*Dennis Jay*  
Operator's Signature

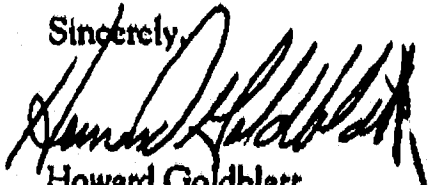
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Page 2

The coalition is a national broad-based organization of consumer groups, insurance companies and government organizations dedicated to combating all forms of insurance fraud. We have been actively involved in seeking stricter laws that have been enacted in several states. House Bill 1231 tracks the coalition's model insurance fraud law and we believe its passage will benefit everyone in North Dakota.

Please let me know if you have any questions.

Sincerely,



Howard Goldblatt  
Director of Government Affairs

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FROM Coalition Against Insurance Fraud

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