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Donna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1374

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1374

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/29/03

Tape Number	Side A	Side B	Meter #
1	x		22.6-38.9
Committee Clerk Signature <i>Jedrick Hammer</i>			

Minutes: **Chairman Keiser** opened the hearing on HB 1374.

Marilyn Foss, Legal Counsel for the ND Banker's Association introduced the bill. (See Attachment #1)

Rep. Klein: This bill is basically allow insurance companies to get into the business of reinsurance?

Marilyn Foss: It will make it clear that excess deposit insurance is a qualified means of securing repayment of public deposits. It will include it in the statutes that list all other types of ways to repay or secure public deposits.

Rep. Klein: What other types are you referring to?

Foss: They are listed in the statutes, most recent are letters of credit from federal home loan banks of ND, letters of credit, treasury bonds, municipal securities.

Rep. Kasper: Are these only two companies that you reference in your testimony that sell this type of insurance or are there a lot more?

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Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1374
Hearing Date 1/29/03

Foss: There are more nationwide. KBS and BankInsure are two that have policies with banks in ND. There is a different company that does it with credit unions. The name escapes me.

Rep. Nottestad: Who bears the cost of this? the bank of the customer?

Foss: The bank pays the premium for the amount of the coverage it purchases. Rates are public deposits are negotiated.

Rep. Nottestad: Would the bank incur more or less cost than issuing a certificate like they do now?

Foss: I have to assume that banks find this a cost effective method of securing public deposits or else they wouldn't use it. It's also comfortable for customers and and convenient for public entities.

Rep. Ekstrom: I'm concerned about adequate reserves. I assume they are dealt with by the banking Commissioner to assure that the reserves of these funds, the insurance coverage is adequate.

Foss: Quality of insurer issue is addressed by State Insurance Commissioner and the rating of investment grade must be maintained. The State Auditor and Banking Commissioner inspect securities too.

Rep. Ekstrom: Given the world situation, are municipalities in jeopardy? Is there anything in here that addresses how fit things are and the fact that we have to have much in excess of what we have on deposit?

Foss: The volatility has made people more comfortable with insurance rather than traded securities.

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Page 3
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1374
Hearing Date 1/29/03

Chairman Keiser: Letters of credit and the other instruments that are available for securities, they represent an equity approach to securities, don't they? This brings in the option from an equity position to an insurance position? You don't tie up a significant amount of funds, you tie up the premiums? And the insurance company is putting up the equity.

Foss: Typically, they are debt type instruments although you can pledge a mutual fund that has some equities in it. You're understanding correctly. These are also relatively short term.

Rep. Dosch: Are public entities required to do any type of "due diligence" on a bank before they invest public funds?

Foss: I think that the statutes presume that if you are an operating, insured bank that regulatory agencies are doing the diligence for you. Public entities have to make sure they don't have an over concentration of deposits in one institution.

Rep. Klein: What is the opinion of credit unions about this?

Foss: I'm assuming that they and their customers, including public entities, like it.

Chairman Keiser: Is insurance available for private depositors?

Foss: Yes, individuals can obtain excess deposit insurance.

As there was no one else to testify either in support or in opposition to HB 1374, the hearing was closed.

Rep. Klein moved a do pass. **Rep. Severson** seconded the motion.

The roll call vote was unanimous: 14-0-0.

Rep. Johnson will carry HB 1374 to the floor.

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Dan Hall
Operator's Signature

10/3/03
Date

Date: 1/29/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1374

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Severson

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

Total (Yes) 14 No 0

Absent 0

Floor Assignment Johnson -

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

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Dorinda Hallmark
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
January 30, 2003 2:16 p.m.

Module No: HR-18-1386
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1374: Industry, Business and Labor Committee (Rep. Kelsner, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1374 was placed on the Eleventh order on the calendar.

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10/3/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1374

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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1374

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-12-03

Tape Number	Side A	Side B	Meter #
1		xxx	1020-1990
Committee Clerk Signature <i>Jessalyn Berkson</i>			

Minutes: Chairman Mutch opened the hearing on HB 1374. All Senators were present.

HB 1374 relates to security for the repayment of deposits of public funds.

Testimony in support of HB 1374

Marilyn Foss, North Dakota Bankers Assoc., introduced the bill. See written testimony. She states the bill is intended to provide financial institutions with another method of securing public deposits- excess deposit insurance. Excess deposit insurance is issued by private insurance companies to cover deposits above the federally insured \$100,000. It is purchased by the financial institution in coverage amounts of up to several million dollars. Insurer underwriting is based upon the financial condition of the financial institution.

Senator Krebsbach: How long has the \$100,000 been in place? And has there ever been a movement to increase that?

Marilyn: Since 1980 and there has been quite a movement within the banking industry to increase the insurance level.

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Dennis Hall
Operator's Signature

10/3/03
Date

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number 1374
Hearing Date 03-12-03

Senator Mutch: What are the reserves in the fund for the insurance program?

Marilyn: I'm not sure of a dollar amount, but they have to be at least 1.25% of the insured deposits. We haven't had an assessment in the last couple of years. They meet the statutory requirements.

Senator Mutch: You mentioned two insurers, are there others that are available?

Marilyn: There could be. I know the credit unions offer it as well.

Senator Espegard: Do you have any idea what the insurance costs?

Marilyn: I will let Jody answer that.

Greg Tschider, Credit Unions, spoke for the record in support of the bill.

There was no opposition. Hearing closed.

Senator Klein moved a DO PASS. **Senator Espegard** seconded.

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

Carrier: Senator Espegard

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Deanna Hall Smith
Operator's Signature

10/3/03
Date

Date: 3-12-03
Roll Call Vote #: 1

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

Senate 1374 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Espgaard

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espgaard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espgaard

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

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10/3/03
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REPORT OF STANDING COMMITTEE (410)
March 12, 2003 1:49 p.m.

Module No: SR-44-4591
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1374: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1374 was placed on the Fourteenth order on the calendar.

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10/3/03
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2003 TESTIMONY

HB 1374

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Date

Attach. 1 - 1/29/03
1374

TESTIMONY OF MARILYN FOSS (NDBA) ON HB 1374

Mr. Chairman, Committee Members, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. HB 1374 was introduced at our request. The bill is intended to provide financial institutions with another method of securing public deposits- excess deposit insurance. Excess deposit insurance is issued by private insurance companies to cover deposits above the federally insured \$100,000. It is purchased by the financial institution in coverage amounts of up to several million dollars. Insurer underwriting is based upon the financial condition of the financial institution.

Excess deposit insurance can be written without cancellation rights or with cancellation rights. (A typical policy term would be six months.) However, in the event that the insurance is either cancelled or not renewed, the insurer sends a notice of the termination of insurance to the insured depositor- in this case the public entity. The notice gives the public entity ¹⁵~~30~~ days to withdraw the deposit or to make alternate arrangements for a pledge or other securities to cover it.

At the present time we are aware of two insurers which issue this type of coverage for banks in North Dakota. They are Kansas Bankers Surety and BancInsure. BancInsure, Inc. was associated with NDBA; however, NDBA recently divested its entire interest in the insurer. I have seen advertisements which indicate credit unions also offer excess deposit insurance, but I'm not familiar with the issuer.

There are a number of banks which have purchased the insurance to secure public deposits under the authority of NDCC 21-04-08. This section of law permits a bank to post a bond in the amount of the public deposit and provides that the form, sufficiency, and amount

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Date

of the bond will be approved by the state's attorney and governing board of the public entity. What some banks have found is that state's attorneys are reluctant to approve the excess deposit insurance because they don't have the expertise to judge the quality of the issuer. We have addressed this in the bill by providing the excess deposit coverage must be issued by a company which is rated at least A- by A.M. Best Company, Inc. Best is, perhaps, the most well recognized private insurance company rating service and A- is the A.M. Best investment grade rating. Insurance companies which desire to offer this product in North Dakota may also qualify by achieving an equivalent rating from a company other than Best. Rating equivalency will be determined by the state insurance commissioner. This places the responsibility for assessing insurer quality on persons who are capable of doing a good job at it. Both KBS and BancInsure, Inc. meet the rating standard.

The bill is drafted so that a public deposit which is secured by excess deposit insurance is not also secured by a pledge of securities. However, as a practical matter no public body is required to accept excess deposit insurance as security for a deposit. There are plenty of financial institutions in this state which are eligible to be depositories of public funds, so no institution has the leverage to force excess deposit insurance on any public depositor.

In addition to my testimony, I've also provided the committee with samples of the certificates which are used as evidence of excess deposit insurance. Jody Brown, a BancInsure agent agreed to come to the hearing and be a reference person to help me answer committee questions more fully. With that, I'll thank you for your attention and respond to questions.

Policy Number:

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY)
PRODUCER BancInsure 120 North 3rd Street, Ste 240 P.O. Box 1438 Bismarck, ND 58501 (701)250-6633	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURERS AFFORDING COVERAGE		
INSURED Bank of North Dakota P.O. Box 5509 Bismarck, ND 58502-5509	INSURER A: BancInsure INSURER B: INSURER C: INSURER D: INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

IRIS LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY				EACH OCCURRENCE \$
	COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$
	<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person) \$
					PERSONAL & ADV INJURY \$
					GENERAL AGGREGATE \$
					PRODUCTS - COMP/OP AGG \$
					GENTL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO				BODILY INJURY (Per person) \$
	ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	HIRED AUTOS				
	NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	ANY AUTO				OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS LIABILITY				EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
					\$
	DEDUCTIBLE				\$
	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION
		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>15</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
		AUTHORIZED REPRESENTATIVE

ACORD 25-S (7/97)

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Excess deposit insurance can be written without cancellation rights or with cancellation rights. (A typical policy term would be six months.) However, in the event that the insurance is either cancelled or not renewed, the insurer sends a notice of the termination of insurance to the insured depositor- in this case the public entity. The notice gives the public entity ¹⁶~~30~~ days to withdraw the deposit or to make alternate arrangements for a pledge or other securities to cover it.

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