

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/02/2015**

Amendment to: HB 1094

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Bill prohibits an elected statewide official in the executive branch from establishing a nonprofit in that official's capacity as an elected officer to perform any governmental function. There is zero fiscal impact as a result of this bill.

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

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Ryan Skor

**Agency:** Office of State Treasurer

**Telephone:** 701-328-4637

**Date Prepared:** 02/03/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/20/2014**

Bill/Resolution No.: HB 1094

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
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- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Bill provides the treasurer with appropriation authority over funds raised through a charitable organization. The only funds available for expending are the amounts raised through donations to the fund. No State funds are requested so there would be zero fiscal impact as a result of this bill.

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

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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

**Name:** Ryan Skor

**Agency:** Office of State Treasurer

**Telephone:** 701-328-4637

**Date Prepared:** 12/23/2014

**2015 HOUSE APPROPRIATIONS**

**HB 1094**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1094  
1/20/2015  
22180

- Subcommittee  
 Conference Committee



## Explanation or reason for introduction of bill/resolution:

Relating to the State Treasurer's administration of the "your financial health foundation" and to provide continuing appropriation.

Fiscal note attached

## Minutes:

Attachments: 1

**Chairman Jeff Delzer** opened the hearing on HB 1094.

**North Dakota State Treasurer Kelly Schmidt** spoke on the bill as the primary sponsor.

### **Chairman Jeff Delzer**

What gave you the right to create the 501C3 nonprofit?

**Schmidt:** working with the Assistant Attorney General, I could create this whether I put it into my office or I create it personally. And we decided it would be best to pull it into the process. It was just approved this last year. So this is the first legislative session we've had an opportunity to...

### **Chairman Jeff Delzer**

Who was it approved by?

### **Schmidt:**

The IRS (Internal Revenue System).

### **Chairman Jeff Delzer**

You didn't come to the legislature and ask permission to do this as the State Treasurer?

**Schmidt:** No I did not. I applied for it as I modeled it off of many offices in other states and working with our Assistant Attorney General to apply as a 501C3.

**Chairman Jeff Delzer**

How much money do you think you're going to raise and spend and what are you going to do? I have a hard time with the State Treasurer doing this; I don't think it's the State Treasurer's job.

**Schmidt:**

I can share that there are others State Treasurers that are doing this in other states and the National Association of State Treasurer's Foundation has a 501C3 foundation, but aside from that our plan is to raise dollars from private enterprise; that would be a non-profit. They can deduct their contribution to this foundation and we can use those dollars for the North Dakota Jump Start Coalition does; things that other entities do in referring to education. It is all monitored under the IRS; we have to submit annual reports and we have to submit tax statements that prove that we have done what we have claimed we are going to do. It is an opportunity for us to raise those dollars to implement financial education without using state funds.

**Chairman Jeff Delzer**

The other issue I have is this is continuing appropriations; this committee historically really dislikes these, because we don't see them. If we pass this, unless we ask for them, we would never have any idea what you were doing with it.

**Schmidt:** This is how the bill is drafted working with our Assistant Attorney General and I think it was taken from a couple other samples throughout state government. The Dept. of Veteran's Affairs also has a 501C3 and I think it was just modeled after that. Our intention would be to bring the expenditures and discussion on how this would be used forward when our budget comes forward to the legislative process.

**Representative Hogan**

How many other similar foundations are in state government?

**Schmidt:**

I don't know the exact number. I know the Dept. of Veteran's Affairs recently established a 501C3 a couple sessions back.

**Representative Streyle**

It may be unique, or somewhat unique in the nation, I think this is an absolutely critical piece. Financial literacy; we are failing our students in this state, without financial literacy. Anything we can do as a state to help encourage our youth to understand the concepts of daily life, I think we need to go for it.

**Representative Vigesaa**

How would you market the program, would it be seminars, brochures, just an on-line presence?

**Schmidt:**

We have many opportunities coming forward. We've discussed having a couple conferences, having breakout sessions, some relating to investments, some to end of life

decisions. This program would address issues cradle to grave, not just K-12, not just college.

**Chairman Jeff Delzer**

It still does not belong in the Treasurers spot; doing it might be fine, but I don't think it belongs in your office. How much of your time would you spend on it?

**Schmidt:**

We already are doing it; this will give us an opportunity to partner and to do it more efficiently because we will have access to dollars. It's listed under our duties and the responsibilities of the State Treasurer.

**Chairman Jeff Delzer**

You're adding it to your duties.

**Schmidt:** No it's already there and is in the testimony.

**Representative Glassheim**

Who will be doing this, employees of your office and working; how do you separate the two functions between the functions and the nonprofit function?

**Schmidt:** currently we have two people in the office working on initiatives. As far as the 501C3 we can address initiatives more closely related to North Dakotans rather than piggybacking and marrying up with something else.

**Representative Hogan**

How the board of the 501C3 is structured, what's the relationship between the board of the 501C3 and your office?

**Schmidt:**

I serve on the board, as well as members of the public serve on this board.

**Representative Hogan**

If we didn't approve this, could your 501C3 still do what you want it to do with this bill?

**Schmidt:**

Yes, I could continue to do the 501C3, without having it work through my office.

**Chairman Jeff Delzer**

It wouldn't be part of the State Treasurer's; it would have to be set up as autonomous outfit by itself.

**Schmidt:**

It is set up autonomously as Kelly Schmidt and Kelly Schmidt is the State Treasurer and that's why I thought it was important to bring it forward to the process. And where there is a time where I am not the Treasurer, the opportunity would be there to change that within the IRS so that it would stay with the current Treasurer or the office and continue to address the needs of the people of North Dakota.

**Representative Skarphol**

Are you thinking of doing this for the young people of this state or for all people of the state including adults? If both, then how are you going to differentiate?

**Schmidt:**

We see a need for adults. We partner with organizations that work with K-12 education, such as Jump Start coalition.

**Representative Skarphol**

Do you see this foundation providing grants to other entities to do this work?

**Schmidt:**

We don't see that, but if there is an opportunity to raise some dollars and partner with another entity that would directly affect North Dakotans, we may need to consider that.

**Chairman Jeff Delzer**

Is there any further testimony in support of or in opposition to HB 1094?

**Robert Peterson North Dakota State Auditor:**

I am not in favor of HB1094. I believe setting up a foundation to cover this matter could easily be done through the Bank of North Dakota (BND). If anyone wanted to argue that they have less fiscal literacy than the State Treasurer's office, I would like to hear that. I think they already have some programs that lend themselves to that, whether it's the College Save or whatever. Not in favor of foundations being held by elected officials. I think it sends a wrong message to elected officials to start up their own foundations for whatever reason they might deem positive for the people of this state.

**Chairman Jeff Delzer**

How many continuing appropriations does state auditor's offices have, do you know?

**Peterson:** we don't have any.

**Representative Streyle**

College Save doesn't have anything to do with this. That is a savings account. This is literacy; so they are not even comparable.

**Peterson:** I'm not trying to compare them; I'm just saying there are programs that the Bank is using and that the Legislature has approved.

**Representative Streyle**

I'm very familiar with the BND; they do very little with financial literacy. I can't think of one program that they do.

**Representative Skarphol**

Mr. Peterson, are there any other state agencies that have foundations?

**Peterson:** just the university system that I know of

**Representative Skarphol**

I don't consider them a state agency. And if the Treasurer were to have this foundation, would it be a blended component unit?

**Peterson:** Probably.

**Chairman Jeff Delzer**

Further testimony in opposition or neutral to HB 1094?

Committee members; we'll hold this bill and have a discussion at a later time.

**Chairman Jeff Delzer**

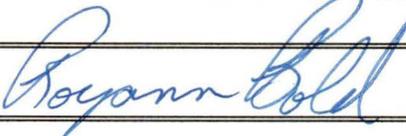
Closed the hearing on HB 1094.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1094  
1/20/2015  
22472

- Subcommittee  
 Conference Committee



## **Explanation or reason for introduction of bill/resolution:**

Relating to the State Treasurer's administration of the "your financial health foundation" and to provide continuing appropriation  
Fiscal note attached

## **Minutes:**

No Attachments

**Chairman Jeff Delzer** called the hearing to order on HB 1084

### **Representative Glassheim**

I have concerns about a private fund in a public agency and an elected official doing stuff that's not in the budget and not in their job.

### **Chairman Jeff Delzer**

I can understand what Representative Streyle said about education. I have a problem with it being part of the Treasury's office. I think there are other places where it's a better thing to do and I do have a problem with continuing appropriations, because all of a sudden, you don't see them.

### **Vice Chairman Keith Kempenich**

There are issues with financial literacy and I don't know if the schools are failing us on this too.

### **Chairman Jeff Delzer**

That is a question that needs to be answered. I think it is hard pressed to belong with a private foundation in the Treasurer's office.

### **Representative Streyle**

The purpose is clear it's in the duties of the State Treasurers duties in the testimony; maybe those duties should be struck. We are not doing enough in the K-12 to teach this.

### **Representative Skarphol**

I agree with Representative Glassheim about the discomfort. I also agree with Representative Streyle that it's important that young people get educated. But if we want

the Treasurer to do this in amongst her duties, why not just tell her to do it, and give her the money to do it and not create a foundation? I have angst, if we don't approve it and it's not a blended component unit. We are kind of in a quandary; maybe we should prohibit any and all state officials from creating a foundation.

**Representative Nelson**

State Treasurer has shown leadership in this endeavor. No one else has stepped forward to provide it. If we don't allow it, it will die and won't get implemented if the State Treasurer doesn't. We either will have a policy that this is important or we will let it slide off the table.

**Representative Monson**

Can't deny there is a need. Putting it into K-12 as a required course again, not sure if that would work.

**Chairman Jeff Delzer**

Recommended no further action until committee members had a chance to think about it.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1094  
1/29/2015  
22819

- Subcommittee  
 Conference Committee



## Explanation or reason for introduction of bill/resolution:

Relating to the state treasurer's administration of the your financial health foundation; and to provide a continuing appropriation.

## Minutes:

*Attachments: 1*

**Chairman Jeff Delzer** opened the hearing on HB 1094.

There were major concerns about any elected official from having a 501C3.

He handed out amendment to 1094 that would exclude any elected position from having a 501C3. The State Treasurer is aware of the amendment and can understand the concern about elected officials.

## **Representative Skarphol**

Motioned for approval of the amendment to HB 1094 as listed in the handout 15.8014.01001 prepared by Legislative Council for Chairman Jeff Delzer

**Representative Glassheim:** Seconded the motion.

## **Representative Skarphol**

State Treasurer didn't think it would be that controversial and felt that the financial health plan would be part of her role in partnership with the private sector.

She would like money in her budget to do educational work. And I would certainly support that. I don't think there's a better time for us to do this.

## **Chairman Jeff Delzer**

Asked for further discussion on the vote to amend. Seeing none, all those in favor of the amendment, signify by saying "aye". Opposed Nay?

The motion to approve amendment was carried on a voice vote.

## **Chairman Jeff Delzer**

We have the amended bill before us. What are your wishes?

**Representative Skarphol**

Motioned for a Do Pass as Amended.

**Representative Guggisberg**

Seconded the motion.

**Representative Monson**

What happens since she's already got one established?

**Chairman Jeff Delzer**

I believe she said she's going to give that away.

**Representative Streyle**

So in this amendment, elected officials could still have a 501C3; they just couldn't use it in their capacity?

**Chairman Jeff Delzer**

Right, like the Governor's office has one, but none were for the elected official. My understanding is that they would still be ok. Allen, is that your understanding?

**Allen Knudson; Legislative Council:** it will not affect those other 501C3's.

**Vice Chairman Keith Kempenich**

Her intent is that she will not be using the 501C3.

**Chairman Jeff Delzer**

And this does away with continuing appropriation so she would not have anything available from it either.

**Representative Skarphol**

With my discussions with the Treasurer, she would transfer ownership of the 501C3 to some other entity that would probably take responsibility for doing work.

**Chairman Jeff Delzer**

Further discussion? If not, call the roll for Do Pass As Amended.

Vote: 22 yes, 0 no, 1 absent.

Motion on HB 1094 Do Pass as Amended carries.

**Representative Skarphol** will be the carrier.

Hearing closed.

FD  
1-30-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1094

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to prohibiting executive branch elected officials from establishing nonprofit foundations and public corporations.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

**Nonprofit foundations and public corporations - Prohibition.**

An elected statewide official in the executive branch of government may not establish in that official's capacity as an elective officer a nonprofit foundation or public corporation to perform any governmental function."

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**HB 1094: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1094 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to prohibiting executive branch elected officials from establishing nonprofit foundations and public corporations.

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Renumber accordingly

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1094**

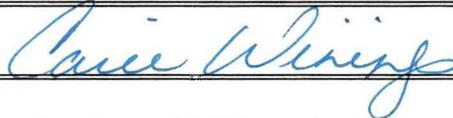
# 2015 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Missouri River Room, State Capitol

HB 1094  
3/26/2015  
Job # 25454

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to prohibiting executive branch elected officials from establishing nonprofit foundations and public corporations.

### Minutes:

Attachments 1

**Chairman Dever:** Opened the hearing on HB 1094.

**Bob Peterson, State Auditor's Office:** Testified in support of the bill. I spoke against this bill when it was on the House side. I do not think that any elected official should have a non-profit or a foundation attached to their office.

**(1:20)Chairman Dever:** Can I assume your change in support is due to an amendment in the House?

**Bob Peterson:** Yes. The bill was gutted and this language was put in.

**Chairman Dever:** Reads from the original bill - what was your opposition?

**Bob Peterson:** The Bank of North Dakota already does that. They already promote financial literacy. One of the examples is College Save. We do not need a redundancy in state government as far as financial literacy. Secondly, I think that future elected officials are all going to want their own non-profits. It will not stop with just one. I do not audit non-profits or foundations at this point in time. I would prefer that financial literacy remain with the Bank of North Dakota if we are going to start instigating large foundations that are raising money. They can do it.

**Senator Flakoll:** Give me examples. Right now I know that we have one that is pending that could qualify. They are willing to donate \$35 million for K12 education and as I would read this bill that would not possibly be allowed. Are there other ones out there that you would think ill advised to do?

**Bob Peterson:** This is the only one that has been established and it is already being run and worked on by the State Treasurer's Office. She is coming in after the fact asking for permission to establish this. I think you are talking about public instruction. I have talked to the Superintendent and she has assured me that this will not be associated with her office in any way shape or form and will not be run by anyone in her office and they will not be working on it. I have told her about this problem and I told her she needed to distance herself. It is one thing to support a foundation but to have it within your office - no.

**Senator Flakoll:** One in 125 plus years does not seem like a rash of foundations. What if you don't establish it but the bulk of the people on it are from a certain entity? How would you read the bill then? Would they be prohibited then?

**Bob Peterson:** There are foundations that have members of their agencies on there. I am not interpreting the law so I think you would need an Attorney General's opinion as to the outcome of your question.

**Senator Poolman:** Would this prevent any elected official from any foundation? I think Senator Flakoll was referring to some distance between the Department of Public Instruction and the foundation to be created. If we pass this would it restrict even something like that?

**Bob Peterson:** It is the distance that is necessary. You need to divorce yourself from this entire foundation. If you don't, it now will become a component unit of your office. I do not think the Superintendent is talking about using her people. I believe she is talking about setting this up independently and raising money for it.

**Chairman Dever:** if the bill was introduced to codify current practice, and the bill as it has been amended was to do the opposite and prohibit it, then is it prohibited under current law or does current law speak to it?

**Bob Peterson:** As far as I am aware the current law does not talk about it.

**Senator Poolman:** Would we need to amend this to create that distance? As I read this now as an elected official I would stay far away from this.

**Bob Peterson:** It is a good question. I would talk to the Attorney General's Office. I would think that as long as the elected official does not have this in their office and that it is a stand-alone foundation where they do not have the ability to influence the foundation. What would happen if you have a foundation and you have to travel and you submit the same travel report to the foundation that you submit to your agency? You could get paid by both. That is why I want this separate. I want this out of their offices.

**Chairman Dever:** Do the same arguments apply to Pride of Dakota? I believe it was created by the AG Commissioner Roger Johnson and Senator Kent Conrad.

**Bob Peterson:** Is it being worked on by their offices? I know that they host these events but is it a foundation or is it just a trade show? Are they raising money actively? I do not know.

**Senator Poolman:** Does not the Department of Agriculture run the promotional commercials for the Pride of Dakota?

**Bob Peterson:** Yes and I think that the legislature appropriates the money for that. But we are talking about a foundation 501c3 too?

**Senator Nelson:** This would not prohibit the Attorney General or you or any elected official from setting up a non-profit not related to your office.

**Bob Peterson:** As long as it is not attached to their office.

**Chairman Dever:** It only applies to elected officials and not appointed officials.

**Bob Peterson:** Correct.

**Senator Flakoll:** So this prohibits the current or future Governors from setting up a foundation for example a drug taskforce? It would seem so.

**Bob Peterson:** If it is the national Governor's association setting up the foundation, I think that would preclude the Governor of North Dakota from saying that he controlled that foundation. I am talking about when an elected official solely is setting up a foundation.

**Chairman Dever:** Would you have a problem if someone else set up the corporation and the elected official put their name behind it?

**Bob Peterson:** Is it in their office?

**(14:20) Kelly Schmidt, State Treasurer:** See Attachment #1 for testimony in opposition to the bill. The bill was hog housed in the House and has become something completely different to the original bill. It is now a solution looking for a problem.

**(18:00)Chairman Dever:** I like what you are doing with this but we do not write legislation based on one circumstance but on every circumstance. How would it function differently if rather than setting up a foundation we had a bill to set this up in Century Code and allow you to accept contributions for that? That would then be deductible with continuing appropriation.

**Kelly Schmidt:** That is what the original bill was intended to do. It was to allow the continuing appropriation authority so that we could raise money and expend money. It was drafted by our assistant Attorney General. That is what I had anticipated that it would do.

**Chairman Dever:** Then you would not have needed to set up a 501C3 foundation at all.

**Kelly Schmidt:** In order to raise tax free dollars. There are corporations all over this nation that have pools of dollars that they are willing to donate to a non-profit charity. We have treasurers across the country that are raising dollars for non-profits in an effort to do that. If we did not have the 501C3 the charitable contribution would not apply.

**Senator Davison:** I thought the problem was clearly defined. If you have a 501C3 that your staff are participating in but that piece is not audited through the state, that there could be a conflict of someone duplicating expenses. From a transparency aspect I thought the problem was really well defined. Now whether I agree with the solution or not is a different question. Don't you see that? If we are not auditing that 501C3 from a state standpoint and it is under the purview of your office, where is the accountability on that piece?

**Kelly Schmidt:** This is not being run through my office at this time. The other officers of the foundation are private citizens. I myself have been the chair just because I have created as an individual citizen. This was an effort to bring it in and bring that transparency in.

**Senator Davison:** Maybe I am misunderstanding. You started the testimony by talking about the office of the state treasurer may work to promote access financial education and you went through that saying that you as the state treasurer are involved in that 501C3. Is that not how the testimony started out?

**Kelly Schmidt:** What I was trying to clarify because it has been part of the argument is that my office should not be doing financial education. That is why I brought that piece into the testimony. If it was a misunderstanding I apologize for that.

**Senator Davison:** I do not know how I feel about the bill yet. I am just trying to understand.

**Chairman Dever:** Would you consider the function of the 501C3 to be a governmental function as it indicates in the bill now?

**Kelly Schmidt:** No, not as it sits right now because I do not have my assistant working on the 501C3. I have a group of people that are in the community working on this and we are the moving parts of that 501C3. There are not people in my office working on this.

**Chairman Dever:** The state auditor would not audit the 501C3 but he would audit your office and whether there is time devoted to the 501C3.

**Kelly Schmidt:** Yes, certainly.

**Senator Nelson:** I am understanding that this is your non-profit and if someone else becomes treasurer and you take your non-profit with you, that new treasurer does not have this program at all.

**Kelly Schmidt:** That is why we wanted to bring it into the office. If it is established and is working very well and it is not using general fund dollars and we have created that collaborative effort, then it would be in the best interest of the state to leave it in the office of state treasurer and have someone pick up where I left off and carry the flag.

**Chairman Dever:** Closed the hearing on HB 1094.

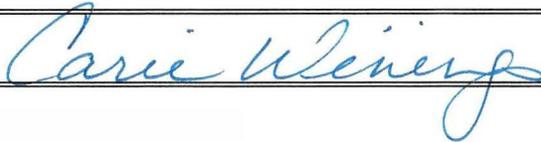
# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1094  
3/26/2015  
Job # 25492

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

No Attachments

**Chairman Dever:** Opened HB 1094 for committee discussion. I did ask Kelly after if she would provide us with a list of corporations that would be affected by this and I do not have it yet.

**Senator Cook:** I do not think that the list was complete.

**Senator Davison:** What I thought the problem was is that the auditors concern was that you have a 501C3 and they don't audit it. I am not sure that I agree with the solution. From the transparency standpoint it allows for a gap in the audit process where someone could potentially cheat the system. I am not sure that someone would.

**Chairman Dever:** So his concern was transparency but in my understanding the bill was introduced by the state treasurer to insure that there was transparency. If we ask ourselves what the problem is that we are trying to solve I don't know that we can define that.

**Senator Davison: Moved a Do Not Pass.**

**Senator Flakoll: Seconded.**

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Dever will carry the bill.**

Date: 3/24  
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1094**

Senate Government and Veterans Affairs 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 Davison Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Dever

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

**REPORT OF STANDING COMMITTEE**

**HB 1094, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1094 was placed on the Fourteenth order on the calendar.**

**2015 TESTIMONY**

**HB 1094**



STATE OF NORTH DAKOTA  
**OFFICE OF STATE TREASURER**  
Kelly L. Schmidt, State Treasurer

HB 1094  
1/20/15  
Attachment 1

HB 1094

House Appropriations

Kelly Schmidt

State Treasurer

HB 1094 is related to the duties of the Office of State Treasurer, as stated in NDCC: 54-11-01,

May work to promote access to financial education tools that can help all North Dakotans make wiser choices in all areas of personal financial management.

The "Your Financial Health Foundation" a 501 (c) 3, non-profit, was established in 2014 to promote the importance of sound money management and personal financial planning without using state funds.

HB 1094 would allow us to accept and expend funds for financial literacy initiatives which would benefit all North Dakotans.

The fiscal note was prepared by office, it shows is no fiscal impact.



Real Possibilities in

# North Dakota

HB 1094  
1/20/15  
- Handed out but  
No Spoken  
Testimony

HB 1094 - SUPPORT  
January 20, 2015  
House Appropriations Committee  
Josh Askvig - AARP North Dakota  
[jaskvig@aarp.org](mailto:jaskvig@aarp.org) or 701-989-0129

Chairman, members of the Committee, I am Josh Askvig, Associate State Director of Advocacy for AARP North Dakota. Thank you for the opportunity to appear before you today and share AARP's support of HB 1094.

Dr. Ethel Percy Andrus, a retired educator and AARP's founder, became an activist in the 1940s when she found a retired teacher living in a chicken coop because she could afford nothing else. Dr. Andrus couldn't ignore the need for health and financial security in America and set the wheels in motion for what would become AARP. We are a nonprofit, nonpartisan membership organization with 85,000 members in North Dakota and 38 million nationwide. We understand the priorities and dreams of people 50-plus and are committed to helping them live life to the fullest, including here in North Dakota.

A critical component of retirement security involves individual savings for retirement. According to AARP policy, "Employees should save an adequate percentage of their earnings to supplement their retirement income... Individuals should be encouraged, through incentives and education, to save on their own to supplement other sources of retirement income."

Additionally, AARP policy supports "... agencies should improve their efforts to assist individuals both directly, by intervening on their behalf, and indirectly, through publication of pamphlets, public service announcements, and other educational efforts."

As you have heard, HB 1094 would allow the State Treasurers office to form a non-profit arm aimed at providing financial literacy education. As mentioned above, our policy supports this aim and we urge you to pass this bill.

Thank you for the opportunity to testify today.

11 510 11  
1/29/15

Attachment 1

HO  
1-30-15

15.8014.01001  
Title.02000

Prepared by the Legislative Council staff for  
Representative Delzer  
January 23, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1094

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to prohibiting executive branch elected officials from establishing nonprofit foundations and public corporations.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

**Nonprofit foundations and public corporations - Prohibition.**

An elected statewide official in the executive branch of government may not establish in that official's capacity as an elective officer a nonprofit foundation or public corporation to perform any governmental function."

Renumber accordingly



3/26 #1

STATE OF NORTH DAKOTA  
OFFICE OF STATE TREASURER  
Kelly L. Schmidt, State Treasurer

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Testimony of

Kelly Schmidt

State Treasurer

Senate Government and Veteran's Affairs Committee

In opposition to

HB 1094

HB 1094 **WAS** related to the duties of the Office of State Treasurer, as stated in NDCC: 54-11-01,

May work to promote access to financial education tools that can help all North Dakotans make wiser choices in all areas of personal financial management.

The "Your Financial Health Foundation" a 501 (c) 3, non-profit, was established in 2014 to promote the importance of sound money management and personal financial planning without using state funds.

HB 1094 would have allowed us to accept and expend funds for financial literacy initiatives which would benefit all North Dakotans. The fiscal note was prepared by our office, it shows no fiscal impact.

The hog housed bill before you denies any elected official from creating a 501(c)3.

Mr. Chairman, members of the committee, I respectfully request the bill be killed.