

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/22/2014**

Bill/Resolution No.: SB 2132

- 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).*

This bill fixes 2 concerns identified by the Auditor's Office in the most recent audit of the Insurance Dept. Both relate to money or funds kept in special funds' reserve accounts. The changes recognize the original intention of the legislature and the manner in which the Fund has been operating.

- 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.*

This bill has no fiscal impact.

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.*

This bill has no fiscal impact.

- 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.*

This bill has no fiscal impact.

- 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.*

This bill has no fiscal impact.

**Name:** Rebecca L. Ternes

**Agency:** Insurance Department

**Telephone:** 328-2440

**Date Prepared:** 12/31/2014

**2015 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2132**

# 2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2132  
1/14/2015  
Job Number 21957

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to petroleum tank registration fees

## Minutes:

Attachment

**Chairman Klein:** Opened the hearing.

**Jeff Bitz, Special Funds Administrator North Dakota Insurance Department:** Written Testimony Attached (1). (:45-6:10)

**Chairman Klein:** Asked what the current fee is for the owners of the tanks. If they go from fifty to one hundred it will go back down again when we reach what amount?

**Jeff Bitz:** The trigger point is when you drop below six million it automatically increases the fee to one hundred. When the surplus, the fund balance, reaches above 5.5 million dollars the fees drop back down to fifty dollars.

**Senator Sinner:** Stated if they have six to seven thousand tanks in North Dakota and collect one hundred dollars a tank they make around seven hundred thousand dollars. If your bond fund balance goes below your target number sometimes it might take a year or two to replenish the fund and is that an annual fee?

**Jeff Bitz:** Yes that is an annual fee.

**Senator Miller:** Who pays this and what is the threshold to determine what tanks qualify?

**Jeff Bitz:** All owner operators who have petroleum products in these storage containers. There is no limit on the size of the container. In the law there is no requirement in terms of discrepancy or size limit. (7:50-8:47)

**Senator Miller:** Asked if farmers should be paying this.

**Jeff Bitz:** Said that farmers are optional. The farm tanks have to comply with the federal requirement regarding SPCC, Spill Prevention Containment and Counter Measures.

**Chairman Klein:** Asked if there was an inspection fee and if someone has to go out and look at those tanks in a year's time.

**Jeff Bitz:** Said they don't do the inspection. They are the financial responsibility mechanism to make sure the owner operators are compliant with their financial responsibility under the federal law. The Health Department does the inspection for all underground storage tank facilities and the federal government is responsible for the inspection for all the above ground storage tanks.

**Chairman Klein:** The only fee to the operator is either fifty or one hundred dollars?

**Jeff Bitz:** That's correct.

**Chairman Klein:** What we are doing here is complying with what the auditors found as non-compliant?

**Jeff Bitz:** That is correct. It's just a matter of compliance. It's how we are doing it now and believe was the intent. (10:55-11:40)

**Senator Miller:** Asked if this only applies to the cleanup cost and not any liabilities?

**Jeff Bitz:** Only eligible cleanup cost. There are certain things within the law itself and administrative rules for eligible cleanup cost. (11:55-12:17)

**Senator Campbell:** The majority of these underground holders are service stations and construction companies and small businesses?

**Jeff Bitz:** You also have counties and cities with underground storage tanks and some aboveground storage tanks for their fleets. The majority of them are gas stations and retail outlets and wholesalers.

**Senator Campbell:** You are not making any additional laws or regulations you are just changing the verbiage on this to show the intent on what you are doing anyway, in essence summarizing the bill?

**Jeff Bitz:** Correct.

**Senator Sinner:** You are accessing what your risks are, what you could be paying out when you determine that balance. That's what this change does?

**Jeff Bitz:** Correct.

**Chairman Klein:** Asked for others in support or opposition. He closed the hearing.

**Senator Murphy** moved a do pass.

**Senator Sinner** seconded the motion.

Senate Industry, Business and Labor Committee

SB 2132

January 14, 2015

Page 3

Roll Call Vote: Yes-7 No-0 Absent-0

**Senator Sinner** will carry the bill.



**REPORT OF STANDING COMMITTEE**

**SB 2132: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** SB 2132 was placed on the Eleventh order on the calendar.

**2015 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2132**

# 2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

SB 2132  
3/9/2015  
24523

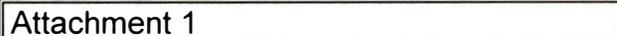
- Subcommittee  
 Conference Committee



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

Petroleum tank registration fees and bonding funds investment income.

**Minutes:**



**Chairman Keiser:** Opens the hearing on SB 2132.

**Jeff Bitz~Special Funds Administrator for the North Dakota Insurance Department:**  
(Attachment 1).

**Mike Rud~President of the North Dakota Petroleum Marketers:** We have no trouble with what the North Dakota Insurance Department is trying to do, so with that I recommend a Do Pass recommendation.

**Chairman Keiser:** Anyone else here to testify in support of SB 2132, opposition, neutral. Closes the hearing, what are the wishes of the committee?

**Vice Chairman Sukut:** Moves a Do Pass.

**Representative Ruby:** Seconded.

**Roll call was taken for a Do Pass on SB 2132 with 14 yes, 0 no, 1 absent and Representative Laning is the carrier.**

Date: Mar 9, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2132

House Industry, Business & Labor Committee

Subcommittee  Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep Sukut Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman	x	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsvog	Ab		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	x	
Representative Laning	x				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Laning

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

**REPORT OF STANDING COMMITTEE**

**SB 2132: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
SB 2132 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**SB 2132**

**SENATE BILL NO. 2132**

**Presented by:**       **Jeff Bitz**  
                              **Special Funds Administrator**  
                              **North Dakota Insurance Department**

**Before:**               **Senate Industry, Business and Labor Committee**  
                              **Senator Jerry Klein, Chairman**

**Date:**                 **January 14, 2015**

**TESTIMONY**

Mr. Chairman and members of the committee, I appear before you today in support of Senate Bill No. 2132. My name is Jeff Bitz, I am the Director of the Special Funds Division of the North Dakota Insurance Department.

Senate Bill No. 2132 fixes two concerns identified by the North Dakota Auditor's Office in the most recent audit of the North Dakota Insurance Department. Both are related to the money or funds kept in the special funds' reserve accounts.

The Petroleum Tank Release Compensation Fund (the Fund) originated in 1989 in response to federal environmental legislation that required each petroleum tank owner or operator to purchase insurance or otherwise provide security of at least \$1 million to cover cleanup cost for petroleum releases.

The federal law allowed states to establish funds like the Petroleum Tank Release Compensation Fund. To meet the federal requirements, a tank owner is allowed to register his tanks with the Fund and pay an annual registration fee. In return the Fund covers the cost of cleanup working jointly with the Health Department.

The Fund has handled approximately 743 claims and has reimbursed tank owners and operators over \$12 million in corrective action expenses. The Fund currently has 27

open claims with reserves of approximately \$1,416,614. The Fund has 1,704 registered sites with 2,017 underground storage tanks and 3,761 aboveground storage tanks.

Section 1 of the bill removes the wording “first day of July in any year the amount of money in the petroleum tank release compensation fund” because, according to the auditors, the language does not allow the Fund to account for liabilities prior to determining the Fund’s reserve balance. The amount of fees for each tank owner is determined based on the Fund reserve balance. Different levels trigger different fee amounts so as to keep the Fund healthy.

The proposed change recognizes the original intention of the Legislature and the manner in which the Fund has been operating.

The State Bonding Fund provides fidelity bond coverage to the State of North Dakota and its political subdivisions, including counties, townships, cities, park districts and school districts. The bond issued is a fidelity blanket bond, which covers public officials and employees for theft of money and property.

Established by the Legislature in 1919, no premium has been charged for this coverage since 1953. Collection of premiums resumes if the Bonding Fund reserve is depleted below \$2 million and continues until the reserve fund reaches \$3 million.

The State Bonding Fund serves 2,991 bondholders with a combined insured value of approximately \$704 million.

Section 2 proposes replacing the word “Money” with “All assessments, interest, profits on investments, and all other income” to clarify how the Fund has been and was intended to be administered.

The auditors interpreted the language to not allow the Bonding Fund to keep the interest earned on its reserves. In practice the Bonding Fund, like all of the other special funds

of the Department has always kept the interest made from its reserves to help sustain itself. The fiscal note requested on the bill indicates no fiscal impact.

I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2132 and am happy to take any questions.

**SENATE BILL NO. 2132**

**Presented by:** Jeff Bitz  
Special Funds Administrator  
North Dakota Insurance Department

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

**Date:** March 9, 2015

**TESTIMONY**

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The Fund has handled approximately 744 claims and has reimbursed tank owners and operators over \$13 million in corrective action expenses. The Fund currently has 18 open claims with reserves of approximately \$810,195. The Fund has 1,677 registered sites with 2,027 underground storage tanks and 3,783 aboveground storage tanks.

Section 1 of the bill removes the wording “first day of July in any year the amount of money in the petroleum tank release compensation fund” because, according to the auditors, the language does not allow the Fund to account for liabilities prior to determining the Fund’s reserve balance. The amount of fees for each tank owner is determined based on the Fund reserve balance. Different levels trigger different fee amounts so as to keep the Fund healthy.

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