

FISCAL NOTE
Requested by Legislative Council
02/11/2015

Amendment to: SB 2270

- 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).*

The bill increases the maximum premium, commission, or fee bail bondsmen can charge for their services and adds the ability to charge for mileage reimbursement.

- 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: 02/12/2015

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Bill/Resolution No.: SB 2270

- 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).*

The bill repeals language limiting licensed bail bond producers to charging no more than 10 percent of the bail in the form of a premium, commission, or fee, or \$75, whichever is greater.

- 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: Rebecca L. Ternes

Agency: Insurance Department

Telephone: 328-2440

Date Prepared: 01/22/2015

2015 SENATE JUDICIARY

SB 2270

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2270

2/3/2015

23075

Subcommittee

Conference Committee

Committee Clerk Signature



Minutes:

1,2

Ch. Hogue: We will open the hearing on SB 2270.

Sen. Kelly Armstrong: Prime sponsor, support (see attached 1). This is the statute relating to bail bondsmen and the maximum fee they can charge. The maximum fee that they can charge is either 10% of the bond or \$75.00, whichever is greater. As our economy gets more diverse and our citizens get more diverse, and our jails fill up, a significant portion of the people sitting in county jail are awaiting trial. Now many of them get a "no bond" order from the court; however, not as many as you would think. Most of the situations involve not being able to pay bond or not be able to come up with whatever the bond is set at. Part of the issue is when you have a more diverse citizenry, your ND assets are very little and if you are from another state, bonding always has to be licensed and insured in the state of ND. They work with each other, they do different things. It becomes uneconomic for a bondsmen to bond somebody out of jail in these circumstances and if anybody has heard testimony from our Supreme Court Chief Justice, often times some of these cases are waiting from 18-24 months to go to trial in western ND. I don't know why we are interfering in the business of somebody who wants to get out of jail but can't because there isn't an economic incentive for the person who wants to get him out of jail to do it. This repeals that portion of the statute. It would allow a willing buyer and a willing seller to negotiate a business transaction that would hopefully have the benefit of freeing up jail space in our overcrowded county jails.

Sen. Grabinger: Essentially, there wouldn't be any limits on what they can charge these people to get them out of jail.

Sen. Armstrong: That would be correct. They can charge them whatever the person would be willing to pay.

Sen. Grabinger: I'm concerned with that. If a second-time offender gets a DUI and bail is set at \$5,000, \$500 cash and hires a bondsman to get out of jail. I understand that first-time offenders usually can get out of jail. If the bondsman said he couldn't do it without having the defendant pay him \$1,000 and it really should be \$500.00. The guy has no alternative, there aren't that many bond companies. Or shouldn't I be concerned with that person that's sitting in jail.

Sen. Armstrong: I would say that there are many bondsmen. I think the lower level bonds aren't your issues here, dealing with your larger cases are. My argument to that is pretty simple; if you have to hire a bondsman from Idaho, because no bondsman in ND will touch you because you don't have any assets in ND and you can't bond out on your own. The bondsman said that if I have to do this from Idaho and deal with it and get certified to make sure that I am in compliance with North Dakota insurance, and get the court to approve it, I'm going to want more money. Your response is that you think it is excessive but I really don't want to sit in jail for 24 months. As someone who has dealt with people, jailers and who are bonding agents, the reasonable standard just that it generally approaches as a business transaction.

Ch. Hogue: Thank you. Further testimony in support.

Joel Gilbertson, Lederman Bonding Company: Support (see attached 1). They operate in a number of states and they have some Lederman Bonding that run the company, include SD State Senator, Dan Lederman. Introduced David Lederman.

David Lederman, Lederman Bonding Company: Support (see attached 2).

Ch. Hogue: You stated that the four states don't have any cap. Do they have any language that says the fee has to be reasonable; anything like that or there is no language that address.

David Lederman: There is language and it stems from the Insurance Division. The Insurance Division makes us file a rate of what we will charge and it says we have to charge this minimum rate. Most of those states, we follow rate of 10% would be the minimum we would charge; they will know that when we write a bond, we will send in the correct premium to the insurance division to

cover that bond. We could charge more than the 10% if we have to travel further or if we have additional costs when it comes to securing the bond. Sometimes there are bigger bonds, like \$10,000, \$20,000, we would have to take a person's property and hold that until the case was dismissed or completed. Then there would be costs trying to secure that property and we can charge those fees in those states.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition.

Steven Krakowski, Ward County Sheriff in Minot: I currently was sanctioned by DOCR because I only have 104 beds in the facility, and I had 154 inmates. Now when they appear in front of the court, the court will tell them that they can post 10% cash or surety; 90% of the inmates now are pre-sentence because they can't come up with the 10% to post bond. I think timing is critical in the Senate bill. Two years from now, I will probably look at this totally different and agree with them, but now I need to get these inmates out because they are a risk, not only to the staff, but to each other when you have that many inmates in a facility. Timing is critical. When I ship all of these inmates today, I probably have 25 outside my facility that goes to the taxpayer. What happens is that is property tax money pays about \$1625.00/day. I would like to see an amount. If this statute is repealed and they can charge 20%, the defendants who can't make the 10%, how are they going to make the 20%? That is going to cause me more problems.

Sen. Armstrong: I'm confused. When the court sets a 10% bond, they don't need a bondsman; they can just post 20%.

Steven Krakowski: It's either cash or surety. They can do 10% cash or go through a bonding company.

Sen. Armstrong: If they post the 10% cash, they can get out.

Steven Krakowski: Absolutely.

Sen. Armstrong: But if they can't come up with the 10% cash, then they have to hire a bondsman.

Steven Krakowski: Correct.

Sen. Armstrong: But I don't think this law would change that 10%. This law would just change what the bondsman can charge them if they can't come up with the 10%.

Steven Krakowski: That's the problem; the more we charge them they won't be able to come out. In other states, there isn't a cap. I think that there are 6 or 7 bonding companies that we have in Minot. If they charge mileage or for hours of time served, that's really not a problem. The higher the fees, the tougher it is for me because they just can't make it. If they could make the bond, they would be out of jail. But they can't and that's why they are sitting in jail.

Sen. Luick: So the ones that can't make bail right now, are they from ND or from other states.

Steven Krakowski: From all over. With the transient population we have, it's true.

Sen. Luick: If they do have property in other state, can they use that as collateral.

Steven Krakowski: That would be between them and the bonding company.

Sen. Luick: What portion of those inmates that you have today would possibly take advantage of something like that?

Steven Krakowski: It would be a guess on my part. I really don't know what they have back home. I don't have time to track what they have or not in those other states.

Ch. Hogue: You said that you had 104 beds, 154 inmates. Sen. Armstrong indicated that in some parts of western ND, the wait time in a facility for 18 months. Do you have inmates that have been there that long?

Steven Krakowski: No, we have not.

Ch. Hogue: What is the average duration of a stay?

Steven Krakowski: Probably about 6-8.

Ch. Hogue: Months.

Steven Krakowski: Yes.

Ch. Hogue: They are there for 6-8 months because they can't come up with the 10% cash or convince a bondsman to give them a bond.

Steven Krakowski: Yes.

Sen. Armstrong: What about percentage of the people in your county jail awaiting trial.

Steven Krakowski: About 85% are pre-sentence, waiting in jail. That creates a problem for us because when I house them outside the facility, I take them either to Rugby or Bismarck and they have the right to see their attorney in person, rather than IVN, we have to go and get them and bring them back to Minot, then take them back to the jail. It's very costly to us for each trip. I would like to see them get out of jail if they could. I wish a bonding company would come and take 30 of them. I would be pleased to see that happen.

Sen. Luick: Do you know what the rate of default is on these bonds.

Steven Krakowski: I don't know.

Ch. Hogue: What is the average bond set at for these inmates that have been sitting there for 6-8 months?

Steven Krakowski: The volume of inmates that we have, we went to the district court and we reduced all of their bonds by 50%. The court is mandated by sentencing guidelines for DUIs and other crimes. They can't shorten up the sentence or they are mandated by statute. They have reduced the bond by 50% which has been a big help, but we're still running at maximum capacity.

Ch. Hogue: Can you give me an idea of what the inmates who are sitting 6-8 months, what their bond was originally set at.

Steven Krakowski: They run the gambit, just looking at the roster for last week, it is anywhere from 5,000-25,000 dollar bonds. We detain no class B misdemeanors anymore. All class B misdemeanors sign a promise to appear and are released; exception to that is domestic violence, those have to be held. Other than that, the majority of them are not showing up. That

constitutes a problem because you have them sign a promise to appear. They don't appear, you go to the states attorney to get a warrant to go to the judge and get it signed and then have you to hunt them down so that creates a problem for us as well. We're just full.

Ch. Hogue: Thank you. Further testimony in opposition. Neutral testimony. We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2270
2/10/2015
23595

- Subcommittee
 Conference Committee

Committee Clerk Signature

D. Penrose

Minutes:

1

Ch. Hogue: Let's take a look at SB 2270.

Sen. Casper: This is the original piece of legislation that was supposed to, red strike at lines 5 and 6 to strike this section of the code so that there wouldn't be a limit on the maximum commission fee of a bondsman. We heard from a bondsman from the SD/Iowa area. I heard from people in law enforcement, the sheriff in my district about not getting rid of the limit but just raise it to 20% from 10%, from \$75.00 to \$150.00; then allow them to charge for mileage reimbursement with regard to making those trips out to western ND and other areas of the state.

Ch. Hogue: As you recall, there was some testimony in opposition from a county sheriff from Ward County. I was not aware that there are six bondsmen that serve the Minot area. That's pretty healthy competition. The defendant is in a pretty vulnerable position, because they have to make a call to get out of jail. They do have options and those options are provided to them in the jail, so they can shop prices around. So the fact that we're raising the max doesn't mean that the bail bondsmen will be able to charge the max in all of these cases.

Sen. Luick: Are the inmates allowed to make only one phone call.

Sen. Armstrong: Typically prior to booking, you aren't usually allowed to make a phone call unless you are trying to get a hold of your lawyer; you aren't allowed a phone call. After you are booked in, they go on a schedule to use the phone.

Ch. Hogue: In various places within the county jails, is there some places where they can identify who the bondsmen are if they need to call them.

Sen. Armstrong: I should also note that when you do make a call from a local job, unless you are talking to your lawyer, they are listening to that phone call.

Sen. Grabinger: I move the amendment.

Sen. Luick: Second.

Ch. Hogue: Voice vote, motion carried. We now have the bill before as amended.

Sen. Grabinger: I move a Do Pass as Amended.

Sen. Luick: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Sen. Casper

February 10, 2015

NI
2/10/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2270

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 26.1-26.6-08 of the North Dakota Century Code, relating to commissions, premiums, fees, and mileage reimbursement charged by bail bond agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-26.6-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-08. Maximum commission or fee - Mileage.

A bail bond agent may not charge a premium, commission, or fee for a bond in an amount more than ~~twenty~~ percent of the amount of bail furnished by the bail bond agent, or ~~seventy-five~~ one hundred fifty dollars, whichever is greater. In addition to the premium, commission, or fee charged under this section, a bail bond agent may charge for mileage reimbursement, which may not exceed mileage reimbursement rates provided for state employees under section 54-06-09."

Renumber accordingly

Date: 2/10/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE 2270
BILL/RESOLUTION NO. _____

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15.0948.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Seconded By

Motion Made By Sen Grabinger Sen Luick

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Ch. Hogue | | | Sen. Grabinger | | |
| Sen. Armstrong | | | Sen. C. Nelson | | |
| Sen. Casper | | | | | |
| Sen. Luick | | | | | |
| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

motion carried.

Date: 2/10/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2270

Senate _____ **JUDICIARY** _____ Committee

Subcommittee

Amendment LC# or Description: 15.0948.01001 02000

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 Sen. Grabinger Seconded By Sen. Luick

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Chairman Hogue | ✓ | | Sen. Grabinger | ✓ | |
| Sen. Armstrong | ✓ | | Sen. C. Nelson | ✓ | |
| Sen. Casper | ✓ | | | | |
| Sen. Luick | ✓ | | | | |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Casper

REPORT OF STANDING COMMITTEE

SB 2270: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2270 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 amend and reenact section 26.1-26.6-08 of the North Dakota Century Code, relating to commissions, premiums, fees, and mileage reimbursement charged by bail bond agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-26.6-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-08. Maximum commission or fee - Mileage.

A bail bond agent may not charge a premium, commission, or fee for a bond in an amount more than ~~ten~~twenty percent of the amount of bail furnished by the bail bond agent, or ~~seventy-five~~one hundred fifty dollars, whichever is greater. In addition to the premium, commission, or fee charged under this section, a bail bond agent may charge for mileage reimbursement, which may not exceed mileage reimbursement rates provided for state employees under section 54-06-09."

Renumber accordingly

2015 HOUSE JUDICIARY

SB 2270

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2270
3/25/2015
25419

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to commissions, premiums, fees, and mileage reimbursement charged by bail bond agents.

Minutes:

Handout #1

Chairman K. Koppelman: Opened the hearing on SB 2270.

Senator Armstrong: Over 50% of the people who are housed in Williams County jails are awaiting sentencing. In that county that disposition can take anywhere from nine to eighteen months. Compounding that issue a lot of these people are from other areas so their assets are somewhere else. If your assets are somewhere else a ND bonds man will not deal with a mortgage application or things of that nature that can bond somebody out. This will increase the max to 20% or \$150 and allows for mileage and travel costs. This is a minor change to determine how people get bonded out of jail prior to the disposition of their case. In the oil patch it is a big deal to allow people to get out of jail. This is one way for corporation can meet all the bonding requirements in ND to be able to bond their people out of jail. We had some questions about the protection of the defendant and not getting price gouged and that kind of thing. What you think is reasonable and somebody who is going to set in a jail cell for 18 months is reasonable are two very different things and they should be allowed to make that decision provided they meet all the other requirements of the bonding issue. There is competition in this area so it does open it up. It would help our jails with overcrowding also.

Rep. Karls: What was your first sentence?

Senator Armstrong: In Williams County it is over 50%. Judge Nelson in Williams County said I needed an hour for a hearing in Williams County. October was the first open time he had for a hearing for a person.

Rep. Karls: So they are awaiting disposition of the trial date?

Senator Armstrong: Often these are misdemeanors that they are waiting for and they won't carry that long of a sentence anyway.

Rep. Mary Johnson: Does mileage include air miles?

Senator Armstrong: It tracks with the state so it is a state rate.

Rep. G. Paur: The bonding company retains the 20%; correct?

Senator Armstrong: Yes if the bond is \$10,000 it is 20%. If you are cash and asset poor a bonds man never comes into this because most of these judges set a 10% bond. But if you are asset are located in a different jurisdiction it is not economical for bonds men to spend \$75 or \$300 without mileage to come up and bond you out.

Rep. G. Paur: Nationally 50% of the people in jails are awaiting pretrial. In ND some places that jumps to 85%.

Rep. Lois Delmore: How long has it been since this was last raised?

Senator Armstrong: I don't know.

Rep. Lois Delmore: In additional to the charge per mile does that mean if I head to Texas or Alaska that is mileage that will be paid for them to come and bring me back? What is the mileage for?

Senator Armstrong: Gave an example to I do something. When you hire a bonds man it is a private contract. It is something you talk about before you go to bail someone out of jail.

Chairman K. Koppelman: There are caps to private contractual agreements.

Rep. L. Klemin: Does the bonds man have to come here from Nebraska to do this?

Senator Armstrong: Yes I think they will have to come here in lots of cases. If I am hiring a bondsman in Bismarck and I am in Watford City; then I will drive from Bismarck to Watford City and I will charge you mileage.

Rep. Brabandt: what is the largest bond allowable in the state of ND? The court sets the bond.

Senator Armstrong: We have no limitations.

Chairman K. Koppelman: What do they tend to run?

Senator Armstrong: When you get over crowding in jail the bonds seem to go down. Depends on why they are setting up the bond.

Rep. K. Wallman: We heard hearings on bounty hunters. Do out of state bounty hunters have to abide by our laws?

Senator Armstrong: Yes they do. You do have to meet all of the ND requirements.

Rep. Brabandt: There is no provision for food and lodging?

Senator Armstrong: When you raise the cap 20% that can be factored in.

Chairman K. Koppelman: Is there negotiation on the fee or because the 10% cap is so low is that the default that most bondsmen charge?

Senator Armstrong: I don't know that answer.

Joe Gilberson, Lederman Bonding: Just here to introduce Dan Lederman.

Senator SD Dan Lederman: (See handout #1) (17:20-20:00) In 1993 it was \$50; \$75 in 2003. Was when this was changed. Bonding companies will work through a national group and do a transfer bond that will have a local agent come here and do the bond. By having a statute different than other states it is a problem because you can't fully pay the people cauterizing the bonding agents in the state where the family may live. We talk about larger bonds they do work themselves out. This comes into effect for \$1000-\$1500 bonds that are hard to get agents out of bed to do these because the current statute doesn't allow for mileage or more than \$100. That is where the problem is. We can't get our agents to travel that far for that small of an amount of money.

Rep. K. Wallman: does your company employ the bonding agents or your are more of a facilitator?

Senator Lederman: Many times companies are mom and pop outfits. We actually 1099 our agents. They are independent contractors so they are not employees. It would be easier to illustrate when we get a call. If it is a \$750 bond and say our agent is local. In other states we are able to charge \$150. In ND there are a lot of laws that try to protect the consumer so we try to be sensitive to that. So we just set in place a step up of what can be charged.

Chairman K. Koppelman: If you have someone who is in jail and there is \$750 bond; that individual sets in jail so part of this is about whether they get released or not.

Senator Lederman: Yes sir.

Rep. G. Paur: Maybe he could pick up several bonds and then charge mileage for all of them.

Senator Lederman: When you bondsman they have to go right away. There is urgency to the need to get out of jail due to their work obligations.

Rep. L. Klemin: Why state and federal laws relating to electronic transactions don't apply to this situation. Why can't commercial transactions be done electronically?

Senator Lederman: That is a broad question. We have tried to keep the electronic transmission out of the process because it is a hand on contract and you have to meet with the people directly to make sure they are identifying the contract. You make for sure that defendant is coming back to court.

Rep. L. Klemin: That sounds like a business decision on who you want to do that just like any other business transaction. If that is allowed in ND?

Senator Lederman: I am not aware of those laws in ND, but I can get back to you.

Rep. Brabandt: Do you have an office in ND?

Senator Lederman: No we do not; we have four agents.

Rep. Brabandt: Our average bond is \$1000 to \$1500?

Chairman K. Koppelman: What kind of a default rate do you have now in bonds?

Senator Lederman: About 10% that fail to appeal. Most people just don't understand the law so they get confused about the law.

Opposition: None

Neutral: None

Rep. K. Wallman: What about the fiscal note?

Chairman K. Koppelman: It was zero.

Hearing closed.

Do pass motion made by Rep. Rep. K. Hawken: Seconded by Rep. Karls:

Discussion:

Rep. L. Klemin: It seems to me the court conducts business and sets a bond through audio video means and they should be doing that too. There could be some efficiency's here.

Rep. Mary Johnson: The guy is in jail so how can the bails bond company have the efficiency?

Rep. L. Klemin: Originally there is some provision in ND law that you can't do this.

Chairman K. Koppelman: This is probably a hand on thing. The bill deals with fees.

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Rep. G. Paur

Date: 3-25-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2270**

House JUDICIARY 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 Hawken Seconded By Rep. Karls

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | ✓ | | Rep. Pamela Anderson | ✓ | |
| Vice Chairman Karls | ✓ | | Rep. Delmore | ✓ | |
| Rep. Brabandt | ✓ | | Rep. K. Wallman | ✓ | |
| Rep. Hawken | ✓ | | | | |
| Rep. Mary Johnson | ✓ | | | | |
| Rep. Klemin | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
| Rep. D. Larson | ✓ | | | | |
| Rep. Maragos | ✓ | | | | |
| Rep. Paur | ✓ | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Paur

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

REPORT OF STANDING COMMITTEE

SB 2270, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2270 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2270

Joel Gilbertson
2/3/15

#SB2270 #19

- h. Knowingly employing a person whose insurance producer license has been revoked, suspended, or denied in this or any other state.
 - i. Knowingly or intentionally executing a bail bond without collecting in full a premium for the bond, at the premium rate as filed with and approved by the commissioner.
 - j. Failing to pay any forfeiture as directed by a court and as required by this chapter.
2. A bail bond agent or bail bond agency may not advertise as or hold itself out to be a surety company.
 3. A bail bond agent may not sign nor countersign any blank in any bond, nor give up power of attorney to or otherwise authorize, anyone to countersign the bail bond agent's name to bonds.
 4. When a bail bond agent accepts collateral, the bail bond agent shall give a written receipt for the collateral and this receipt must contain a full description of the collateral received in the terms of redemption. The bail bond agent shall keep copies of all receipts of the bonds to be placed in business to be available to the commissioner for the commissioner's review.
 5. The provisions and penalties under this section are in addition to those provided under chapter 26.1-26.

26.1-26.6-06. Access to jails.

Every person who holds a valid bail bond agent license issued by the insurance commissioner is entitled to equal access to the jails of the state for the purpose of making bond, subject to the provisions of this chapter and the rules adopted in the manner provided by law. Jail personnel, law enforcement officers, and court personnel may not suggest, recommend, advise, or promote a particular bail bond agent. Each jail shall furnish a space convenient to the telephones in the booking area to be used to hold business cards of bail bond agents.

26.1-26.6-07. Surrender of defendant prior to breach.

At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bail bond agent may surrender the defendant, or the defendant may surrender, to the official to whose custody the defendant would have been given had the defendant been committed. The defendant may be surrendered without the return of premium for the bond if the defendant has been guilty of nonpayment of premium, changing address without notifying the bail bond agent, self-concealment, or leaving the jurisdiction of the court without the permission of the bail bond agent, or of violating the defendant's contract with the bail bond agent in any way that does harm to the bail bond agent, or the surety, or violates the obligation to the court. For the purpose of surrendering the defendant, the surety may arrest the defendant before the forfeiture of the undertaking, or by written authority endorsed on a certified copy of the undertaking, may empower any peace officer to make arrest, first paying the lawful fees therefor.

26.1-26.6-08. Maximum commission or fee.

A bail bond agent may not charge a premium, commission, or fee for a bond in an amount more than ten percent of the amount of bail furnished by the bail bond agent, or seventy-five dollars, whichever is greater.

26.1-26.6-09. Failure to appear.

If a defendant fails to appear for a scheduled court appearance, the clerk of court shall notify the bail bond agent. If the bail bond agent returns the defendant to the jurisdiction of the court, the bail bond agent may petition the court for a return of the forfeiture. If the bail bond agent returns the defendant to the jurisdiction of the court within six months of receiving notice of the failure to appear, the court shall return at least fifty percent of the forfeiture upon petition by the bail bond agent. If the bail bond agent returns the defendant to the jurisdiction of the court beyond six months of receiving notice of the failure to appear, the court may return the forfeiture upon receipt of a petition from the bail bond agent, less five percent for court costs.

2-1
2/3/15

To: Senate Judiciary Committee

From: Lederman Bonding Company

Re: SB2270

Dear Chairman,

I, David Lederman would like to thank you and the committee for allowing me to testify at this time in regards to SB2270.

Lederman Bonding Company originates from Iowa which is where I am from and currently located. We currently operate in North Dakota with four agents. Our agent, Deb Chapman from Minot is here with me today.

Our company was started in 1965 by my father M. Sidney Lederman in Waterloo, Iowa. I came into the business after college in 1991 because my father had become terminally ill with cancer.

Our business has grown to encompass 5 states- Iowa, North Dakota, South Dakota, Minnesota, and Wyoming. Of the states we currently conduct business in North Dakota is the only one with a statute limiting the amount of fees that can be charged.

The Bill before the committee has two basic points we are trying to achieve.

*First, to change the language of the current statute to allow licensed bonding agents to charge additional fees related to the surety bond 10% premium fee. By changing the language, it would make it easier to hire and retain professional agents.

*Second, additional local professional bonding agents would be able to service the jail faster and more efficiently. This would help decrease the jail population and save the county money.

I would like to thank this committee for taking the time to hear our testimony in regards to SB2270.

Sincerely,

David Lederman

1-1

Sen. Casper
2/10/15

PROPOSED SB 2270

1 A BILL for an Act to ~~repeal~~ amend and reenact section 26.1-26.6-08 of the North Dakota
2 Century Code, relating to commissions, premiums, and fees charged by bail bond
3 agents.

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

5 ~~**SECTION 1. REPEAL.** Section 26.1-26.6-08 of the North Dakota Century Code is~~
6 ~~repealed.~~

7 **SECTION 1. AMENDMENT.** Section 26.1-26.6-08 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 **26.1-26.6-08. Maximum commission or fee - Mileage.**

10 A bail bond agent may not charge a premium, commission, or fee for a bond in
11 an amount more than ~~ten~~twenty percent of the amount of bail furnished by the bail bond
12 agent, or ~~seventy-five~~one hundred fifty dollars, whichever is greater. In addition to the
13 premium, commission, or fee charged under this section, a bail bond agent may charge
14 for mileage reimbursement, which may not exceed mileage reimbursement rates
15 provided for state employees under section 54 - 06 - 09 .

#1
SB2270
3-25-15

To: House Judiciary Committee

From: Lederman Bonding Company

Re: SB2270

Dear Chairman Koppelman and Members of the Committee,

I, Dan Lederman, would like to thank you and the committee for allowing me to testify at this time in regards to SB2270.

Lederman Bonding Company originates from Iowa which is where I work, although I reside in South Dakota. We currently operate in five states, including North Dakota, where we have four agents.

Our company was started in 1965 by my father M. Sidney Lederman in Waterloo, Iowa. My brothers and I came into the business because my father had become terminally ill.

Our business has grown to encompass 5 states- Iowa, North Dakota, South Dakota, Minnesota, and Wyoming. Of the states we currently conduct business in, North Dakota is the only one with a statute limiting the amount of fees that can be charged.

The Bill before the committee has two basic points we are trying to achieve.

*First, to change the language of the current statute to allow licensed bonding agents to charge additional fees related to the surety bond 10% premium fee. By changing the language, it would make it easier to hire and retain professional agents.

*Second, additional local professional bonding agents would be able to service the jail faster and more efficiently. This would help decrease the jail population and save the counties money.

I would like to thank this committee for taking the time to hear our testimony in regards to SB2270.

Sincerely,

Dan Lederman

(1)