

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1493

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1493

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
2	x		1.3-end
3	x		0-14.2
Committee Clerk Signature <i>Lisa Kopper</i>			

Minutes:

A bill for an act to provide for a department of commerce under the direction of a commerce commissioner.

CHAIRMAN BERG called the hearing for HB 1493 to order with all member present.

2A: 1.6 REP. JOHN DORSO introduced the bill and testified in favor of it.

2A: 7.8 SYVER VINJE, ND Securities Commissioner, testified in support of the bill. (See attached testimony.)

2A: 10.7 REP. EKSTROM asked if there would be a cost savings with a single administrator over the three branches of securities, insurance, and banking. Mr. Vinje said there would not be a savings.

2A: 20.7 REP. LEMIEUX said that North Dakotans like electing officials rather than appointing. He asked if this new commissioner should be elected rather than appointed. Mr. Vinje said that the bill sets up an appointed position.

2A: 22.6 GLENN POMEROY, ND Insurance Commissioner, testified in opposition to the bill. He said that citizens should continue to have a say in who is the commissioner. (See attached testimony.)

2A: 32.8 REP. KEISER said that the Federal government is playing an increased role, and asked at what point this is right for ND. Mr. Pomeroy said that State Insurance Commissioners are fighting for functional regulation. If the state loses its right to regulate insurance, it will lose 3% of the general fund.

2A: 40.0 REP. MERLE BOUCHER submitted an amendment that would provide options to significantly change the bill. (See attached testimony.)

2A: 48.7 REP. LEMIEUX asked if there would be an extra \$9 million. Rep. Boucher said that it cannot be assumed, but they do see the possibility of savings in administrative dollars.

3A: 0.0 GARY PRESZLER, Dept. of Banking and Financial Institutions, testified in support of the bill, although he did urge further study. (See attached testimony.)

3A: 8.0 REP. KEISER asked if it would be appropriate to eliminate the Banking Board and the Credit Union Board if the bill were passed. Mr. Preszler said that the Commissioner would not have the authority that the boards have.

3A: 9.3 JOEL GILBERTSON, Executive Vice President of Small Banks Association, testified in opposition to the bill.

3A: 9.8 GREG TSCHIDER, ND Credit Union League, testified in opposition of the bill. He said that someone is going to have to pay. The system is working as is, and the state should stick with it.

3A: 11.2 TERRY WISE, ND Insurance Association, testified in support of the bill. He stated that further study should be conducted.

3A: 12.0 MARILYN FOSS, ND Bankers Association, testified in opposition to the bill.

CHAIRMAN BERG adjourned the hearing on HB 1493.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date February 10, 1999			
Tape Number	Side A	B Side	Meter #
1	x		46.7-END
1		x	0.4-21.9
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

1A: 46.7 Chairman Berg opened the discussion on House Bill 1493.

Discussion on setting up a Commerce Commission and appointing a head of commission.

Thoughts on taking Securities Commissioner and Banking Commissioner out of the Governor's Appointees. They would be Appointees under the Insurance Commissioner. Discussion on amendments.

1B: 23.6 On a voice vote the amendments were adopted. A motion was made for a DO PASS AS AMENDED on House Bill 1493. The motion was 2nd. On a Roll Call Vote the motion carried.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: HB 1493

Requested by Legislative Council _____ Date of Request: 2-15-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

See attached

2. State fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:		\$51,211	(\$38,827)	\$51,211	(\$38,827)
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3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: _____
- b. For the 1999-2001 biennium: _____
- c. For the 2001-03 biennium: _____

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed Dave Krabbenhoft

Typed Name Dave Krabbenhoft

Department OMB

Phone Number 328-1024

Date Prepared: 2-15-99

Narrative – Amendment to HB 1493

To prepare an accurate fiscal note, a thorough study of the effects of combining the three agencies would have to be conducted. Due to time constraints, a thorough study is not possible. Therefore, this fiscal note is based on the following assumptions:

1. The salary of the commissioner (\$57,120) is funded with 67% special funds and 33% general funds, (Banking and Finance and Insurance are funded with 100% special funds; Securities is funded with 100% general funds). For the 97-99 biennium the salary of the commissioner is funded with 100% special funds.
2. A new FTE is not created for the director of insurance position. It is assumed that the existing deputy position would be reclassified to the director of insurance position.
3. The state commerce advisory board will meet 2 times a year. Each meeting of the advisory board will last two days. Board member compensation and expenses are funded with 67% special funds and 33% general funds. For purposes of this fiscal note per day board member expenses are as follows:
 - Compensation - \$62.50
 - Meals - \$20.00
 - Lodging - \$42.51 (\$39.00 plus 9% tax)
 - Mileage - \$50.00 (200 miles @ .25/mile)
4. Whether the agencies would be co-located or would continue to be located separately is not addressed in the bill, therefore, those effects are not addressed in this fiscal note and are unknown.
5. Dependent on the results of the merger study, other costs and positions could possibly be eliminated. However, due to time constraints, specifically identifying such costs and positions would be highly speculative. Therefore, those effects are not addressed in this fiscal note and are unknown at this time.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1493 Amendment to: _____

Requested by Legislative Council Date of Request: 1-20-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

See attached

- 2. State fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures: (81,655) (115,403) (101,135) (213,697)

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: _____
b. For the 1999-2001 biennium: _____
c. For the 2001-03 biennium: _____

- 4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed Dave Krabbenhoft

Typed Name Dave Krabbenhoft

Date Prepared: 1-25-99

Department OMB

Phone Number 328.1024

Narrative – HB 1493

To prepare an accurate fiscal note, a thorough study of the effects of combining the three agencies would have to be conducted. Due to time constraints, a thorough study is not possible. Therefore, this fiscal note is based on the following assumptions:

1. The merger of the Department of Banking and Financial Institutions, and the Office of the Securities Commissioner would be effective 7/1/1999. The merger of the Office of the Insurance Commissioner, which is contingent on the approval of the voters, would be effective 1/1/2001.
2. The salaries for the positions of the securities commissioner, and the commissioner of banking and financial institutions would be deleted as of 7/1/1999. The salary for the insurance commissioner would be deleted as of 1/1/2001.
3. A salary for the new commerce commissioner would be added effective 7/1/1999. The position would be salaried at \$62,400 per year (estimated biennial salary and fringe - \$154,500). For the purposes of this fiscal note, the commerce commissioner position is funded with 50% general funds and 50% special funds for the period 7/1/1999 to 12/31/2000 (Banking and Finance is funded with 100% special funds, Securities Commission is funded with 100% general funds). Effective 1/1/2001, the position is funded with 67% special funds and 33% general funds (Insurance Commissioner is funded with 100% special funds).
4. Whether the agencies would be co-located or would continue to be located separately is not addressed in the bill, therefore, those effects are not addressed in this fiscal note and are unknown.
5. Salaries have not been deleted for deputies, but assumes those positions would become a division director or the equivalent.
6. Dependent on the results of the merger study, other costs and positions could possibly be eliminated. However, due to time constraints, specifically identifying such costs and positions would be highly speculative. Therefore, those effects are not addressed in this fiscal note and are unknown at this time.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1493

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a department of agriculture, commerce, and labor under the direction of the agriculture commissioner and a department of insurance, banking, and securities under the direction of the insurance commissioner; to create and enact a new section to chapter 4-01, a new section to chapter 6-01, a new section to chapter 10-04, a new section to chapter 26.1-01, a new section to chapter 34-05, and a new section to chapter 54-34.3 of the North Dakota Century Code, relating to the transfer of duties, functions, and powers of the commissioner of banking and financial institutions and the securities commissioner to the insurance commissioner and the transfer of duties, functions, and powers of the labor commissioner and the director of the department of economic development and finance to the agriculture commissioner; to amend and reenact subsection 1 of section 10-04-02, section 10-04-03, subsection 2 of section 10-04-05, sections 26.1-01-02, 26.1-06-12, and 54-34.3-01 of the North Dakota Century Code, relating to the transfer of the duties, functions, and powers of the commissioner of banking and financial institutions and the securities commissioner to the insurance commissioner and to the mission of the department of agriculture, commerce, and labor with respect to economic development; to repeal sections 6-01-01, 6-01-08, 6-01-11, 6-01-12, 34-05-01.1, 34-05-01.2, 54-34.3-02, 54-34.3-03, 54-34.3-04, 54-34.3-05, and 54-34.3-06 of the North Dakota Century Code, relating to the appointment and salary of the commissioner of banking and financial institutions, the bond required of the commissioner of banking and financial institutions, the establishment of a department of labor, the appointment of a labor commissioner, the appointment of the director of the department of economic development and finance, and the structure of the department of economic development and finance; to provide for transfers of appropriations; and to provide an appropriation.

*an Assistant
Commissioner for*

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Department of agriculture, commerce, and labor. There is established a department of agriculture, commerce, and labor, which is under the direction of the agriculture commissioner. The commissioner shall appoint an assistant commissioner for labor and commerce, an assistant commissioner for economic development, and other competent officials and employees to discharge the duties assigned to the commissioner. The agriculture commissioner shall assume the duties, functions, and powers of the labor commissioner and the director of the department of economic development and finance.

SECTION 2. Department of insurance, banking, and securities under the direction of the insurance commissioner. There is established a department of insurance, banking, and securities, which is under the direction of the insurance commissioner. The commissioner shall appoint an assistant commissioner for banking, an assistant commissioner for securities, and other competent officials and employees to discharge the duties assigned to the commissioner.

SECTION 3. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Department of agriculture, commerce, and labor to be substituted for department of agriculture. Whenever the term "department of agriculture" or any derivative of the term when used in the context to refer to that department appears in this code, the term "department of agriculture, commerce, and labor" must be substituted therefor.

SECTION 4. A new section to chapter 6-01 of the North Dakota Century Code is created and enacted as follows:

Insurance commissioner to be substituted for the commissioner of banking and financial institutions and department of insurance, banking, and securities to be substituted for department of banking and financial institutions.
Whenever the term "commissioner of banking and financial institutions" or any derivative of the term when used in the context to refer to that position appears in this code, the term "insurance commissioner" must be substituted therefor. Whenever the term "department of banking and financial institutions" or any derivative of the term is used, the term "department of insurance, banking, and securities" must be substituted therefor. The assistant commissioner for banking, subject to the supervision of the insurance commissioner, shall assume the duties, functions, and powers of the commissioner of banking and financial institutions.

SECTION 5. AMENDMENT. Subsection 1 of section 10-04-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Commissioner" means the ~~securities~~ insurance commissioner of this state.

SECTION 6. A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

Insurance commissioner to be substituted for securities commissioner.
Whenever the term "securities commissioner" or any derivative of the term when used in the context to refer to that position appears in this code, the term "insurance commissioner" must be substituted therefor. The assistant commissioner for securities, subject to the supervision of the insurance commissioner, shall assume the duties, functions, and powers of the securities commissioner.

SECTION 7. AMENDMENT. Section 10-04-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10-04-03. Administration of chapter.

- ~~1. The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing until a successor has been appointed, confirmed by the senate, and has qualified, unless removed as herein provided. If the senate is not in session, the governor may make an interim appointment, and the interim appointee shall hold office until the senate confirms or rejects the appointment. The commissioner must be skilled in securities and may not be an incumbent of any other public office in the state. The commissioner or assistant commissioner for securities may not own or control any security required to be registered under this chapter and may not be an officer, director, or employee of any dealer, salesman, investment adviser, or investment adviser representative required to be registered under this chapter. The governor may remove from office any commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.~~

~~It is the prime duty of the The commissioner to shall administer the provisions of this chapter. The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this~~

~~chapter. In the absence or disability of the commissioner, the deputy shall administer the provisions of this chapter as acting commissioner.~~

- ~~2. The commissioner shall have authority to administer oaths in, and to prescribe forms for, all matters arising under this chapter. The commissioner may from time to time make adopt, amend, and rescind such rules, forms, and orders as are necessary under this chapter, including rules and forms governing registration statements, applications and reports, and defining any terms, whether or not used in this chapter, if the definitions are consistent with this chapter. The commissioner shall cooperate with the administrators of the securities laws of other states and of the United States with a view toward achieving maximum uniformity in the interpretation of like provisions of the laws administered by them and in the forms which are required to be filed under such law.~~
- ~~3. In addition to their regular compensation, the commissioner and the commissioner's employees shall be paid travel expenses necessary and actually incurred in the performance of their duties.~~
4. All fees collected under this chapter must be deposited in the general fund of the state treasury, except civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors may be deposited in a special securities protection fund. All other civil penalties collected, including those collected for the reasonable expenses for the administration of a particular case, must be deposited in the general fund.
5. The commissioner may honor requests from interested persons for the issuance of a statement or opinion concerning the applicability of this chapter or the rules adopted under this chapter to any transaction or proposed transaction ~~which that~~ may be subject to this chapter. ~~Any such~~ A request must be accompanied by a fee to be set by the commissioner by rule, which may not exceed two hundred fifty dollars.

SECTION 8. AMENDMENT. Subsection 2 of section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the commissioner ~~of banking and financial institutions of North Dakota.~~

SECTION 9. A new section to chapter 26.1-01 of the North Dakota Century Code is created and enacted as follows:

Insurance commissioner or department of insurance, banking, and securities to be substituted for insurance department. Whenever the term "insurance department" or any derivative of the term when used to refer to the "commissioner of insurance" appears in the code, the term "department of insurance, banking, and securities" or "insurance commissioner", whichever is appropriate, must be substituted therefor.

SECTION 10. AMENDMENT. Section 26.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-02. Commissioner - Seal ~~—Employment of deputy and assistants.~~ The commissioner shall have an official seal and shall keep an impression of the seal on file in the office of the secretary of state. ~~The commissioner shall employ a deputy and other competent officials and clerks to discharge the duties assigned by the commissioner. When the commissioner is absent temporarily from the office, the deputy commissioner may sign the commissioner's name and perform any other statutory duties pertaining to the office.~~

SECTION 11. AMENDMENT. Section 26.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-06-12. Securities laws. This chapter does not limit or modify ~~in any way any responsibility, authority, power, or jurisdiction of the securities commissioner or of the securities laws of this state.~~

SECTION 12. A new section to chapter 34-05 of the North Dakota Century Code is created and enacted as follows:

Agriculture commissioner to be substituted for the commissioner of labor and department of agriculture, commerce, and labor to be substituted for department of labor. Whenever the term "labor commissioner" or any derivative of the term when used in the context to refer to that position appears in this code, the term "agriculture commissioner" must be substituted therefor. Whenever the term "department of labor" or any derivative of the term is used, the term "department of agriculture, commerce, and labor" must be substituted therefor. The assistant commissioner for labor and commerce, subject to the supervision of the agriculture commissioner, shall assume the duties, functions, and powers of the labor commissioner.

SECTION 13. A new section to chapter 54-34.3 of the North Dakota Century Code is created and enacted as follows:

Department of agriculture, commerce, and labor to be substituted for department of economic development and finance. Whenever the term "department of economic development and finance" or any derivative of the term is used in this code, the term "department of agriculture, commerce, and labor" must be substituted therefor. The assistant commissioner for economic development, subject to the supervision of the agriculture commissioner, shall assume the duties, functions, and powers of the director of the department of economic development and finance.

SECTION 14. AMENDMENT. Section 54-34.3-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-34.3-01. Department of ~~economic~~ agriculture, commerce, and labor - Economic development and finance established - Mission. ~~The North Dakota department of economic development and finance is established to assume the functions, powers, and duties of the economic development commission with respect to programs and other efforts intended to enhance the economic development of the state. The mission of the department is to~~ agriculture, commerce, and labor shall develop strategies and programs to:

1. Facilitate the growth, diversification, and expansion of existing enterprises and the attraction and creation of new wealth-generating enterprises in the state;
2. Promote economic diversification and innovation within the basic industries and economic sectors of this state, including strategies and programs

designed to specialize and focus the state's economy on advanced agriculture and food processing, energy byproduct development, export services and tourism, and advanced manufacturing;

3. Promote increased productivity and value added products, processes, and services in the state, and the export of those goods and services by North Dakota enterprises to the nation and to the world;
4. Maintain and revitalize economically depressed rural areas by working in close collaboration with local communities and by encouraging communities to enter into cooperative relationships for more efficient and effective education, health care, government service, and infrastructure maintenance;
5. Forge a supportive partnership with the Bank of North Dakota, the board of higher education and the state's institutions of higher education, regional planning councils, local development organizations and authorities, the ~~Myron G. Nelson Fund, Incorporated~~, the state's nonprofit development corporations, and other appropriate private and public sector organizations in achieving the economic goals of the state; and
6. Identify those statutes, administrative rules, and policies that impede the attraction, creation, and expansion of businesses and job creation in this state.

SECTION 15. REPEAL. Sections 6-01-11, 6-01-12, and 34-05-01.1 of the North Dakota Century Code and sections 6-01-01, 6-01-08, 34-05-01.2, 54-34.3-02, 54-34.3-03, 54-34.3-04, 54-34.3-05, and 54-34.3-06 of the 1997 Supplement to the North Dakota Century Code are repealed.

SECTION 16. APPROPRIATION - TRANSFER. As of the effective date of this Act, the office of the securities commissioner and the office of the commissioner of banking and financial institutions are abolished, and any funds appropriated to those offices or officers by the fifty-sixth legislative assembly are transferred to the insurance commissioner. As of the effective date of this Act, the department of labor and the department of economic development and finance are abolished, and any funds appropriated to those offices by the fifty-sixth legislative assembly are transferred to the agriculture commissioner.

SECTION 17. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from other special funds derived from federal funds and other income, to the commissioner of agriculture for the purpose of defraying the expenses of the department of agriculture, commerce, and labor, for the biennium beginning July 1, 1999, and ending June 30, 2001, as follows:

Salaries and wages	\$3,676,011
Operating expenses	2,268,666
Equipment	106,608
Grants	1,518,061
General allocation grants	750,000
North Dakota development fund	1,000,000
Agricultural products utilization commission	4,085,911
Total all funds	\$13,405,257
Less estimated income	3,778,712
Total general fund appropriation	\$9,626,545"

see extract ↙

Renumber accordingly

PROPOSED AMENDMENTS TO HB 1493

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a department of commerce under the direction of the insurance commissioner and to provide for a state commerce advisory board; to create and enact a new section to chapter 6-01, a new section to chapter 10-04, and a new section to chapter 26.1-01 of the North Dakota Century Code, relating to the transfer of duties, functions, and powers of the commissioner of banking and financial institutions, the securities commissioner, and the insurance commissioner to a director of banking and financial institutions, a director of securities, and a director of insurance; to amend and reenact sections 6-01-01, 10-04-03, subsection 2 of section 10-04-05, and section 26.1-06-12 of the North Dakota Century Code, relating to the transfer of the duties, functions, and powers of the commissioner of banking and financial institutions, the securities commissioner, and the insurance commissioner to a director of banking and financial institutions, a director of securities, and a director of insurance; to repeal sections 6-01-03, 6-01-04, 6-01-08, 6-01-10, 6-01-11, 6-01-12, 26.1-01-02, 26.1-01-08, and 26.1-01-09 of the North Dakota Century Code, relating to the appointment and salary of the commissioner of banking and financial institutions, the bond required of the commissioner of banking and financial institutions, the state banking board and the state credit union board, and the salary and official seal of the insurance commissioner; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. NEW. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

1. "Board" means the state commerce advisory board.
2. "Commerce commissioner" or "commissioner" means the insurance commissioner of this state.
3. "Department" means the commerce department.
4. "Directors" means the director of banking and financial institutions, the director of securities, and the director of insurance.

Department of commerce under direction of insurance commissioner. There is established a department of commerce, which is under the direction of the insurance commissioner. The commissioner shall employ a director of banking and financial institutions, a director of securities, a director of insurance, and other competent officials and employees to discharge the duties assigned to the commissioner. Each of the directors shall be paid through funds appropriated to the commissioner by the legislative assembly. In addition to their regular compensation, the commissioner and the commissioner's employees, including the directors and employees of any of the divisions, shall be paid travel expenses necessary and actually incurred in the performance of their duties.

- least one of these members shall be a registered agent with a series six examination.
- c. Three members shall be affiliated with and shall represent the interests of persons regulated by the office of the insurance commissioner. At least one of these members shall be a licensed property and casualty insurance agent and at least one of these members shall be a licensed life and health insurance agent.
 - d. Three members shall be members of the general public, which are not associated with any of the persons regulated under any of the foregoing and are knowledgeable consumers of the financial services, securities and insurance industries.
2. **Compensation of board members – Expenses.** Each appointed member of the board is entitled to receive sixty-two dollars and fifty cents per day as compensation for the time actually spent devoted to the duties of office and is entitled to receive necessary expenses in the same manner and amounts as state officials for attending meetings and performing other duties of the board.
3. **Duties.** The duties of the board shall include:
- a. conducting meetings on at least a semi-annual basis.
 - b. reviewing and discussing the statutes, rules, policies and procedures administered by the commissioner.
 - c. reviewing and discussing new developments and trends in the industries regulated by the commissioner.
 - d. reviewing and discussing consumer and investor education and protection for residents of this state.
 - e. making recommendations to the commissioner regarding potential legislative or administrative changes.

SECTION 2. AMENDMENT. Section 6-01-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-01-01. Management and control - ~~State department~~ Division of banking and financial institutions. ~~The state department division of banking and financial institutions is under the supervision of the state banking board, state credit union board, and a chief officer designated as the commissioner of banking and financial institutions, and known as the state examiner. Whenever the term state examiner is used in this code, it means the commissioner of banking and financial institutions~~ director of banking and financial institutions. Neither the insurance commissioner nor the director may own, hold, or control any stock, capital, or bond, or hold the office of trustee, assignee, officer, agent, or employee of any financial institution under the director's jurisdiction, or of any corporation engaged in the business of guarantying or ensuring the fidelity or faithful performance of the duties or the solvency of public officers or of public depositaries. ~~The state department of banking and financial institutions division~~ has charge of the execution of all laws relating to state banks, trust companies,

~~commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.~~

~~It is the prime duty of the commissioner to~~ The director shall administer the provisions of this chapter. ~~The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this chapter. In the absence or disability of the commissioner, the deputy shall administer the provisions of this chapter as acting commissioner.~~

2. ~~The commissioner~~ director shall have authority to administer oaths in, and to prescribe forms for, all matters arising under this chapter. ~~The commissioner~~ director may from time to time make adopt, amend, and rescind such rules, forms, and orders as are necessary under this chapter, including rules and forms governing registration statements, applications and reports, and defining any terms, whether or not used in this chapter, if the definitions are consistent with this chapter. ~~The commissioner~~ director shall cooperate with the administrators of the securities laws of other states and of the United States with a view toward achieving maximum uniformity in the interpretation of like provisions of the laws administered by them and in the forms ~~which are~~ required to be filed under ~~such~~ law.

3. ~~In addition to their regular compensation, the commissioner and the commissioner's employees shall be paid travel expenses necessary and actually incurred in the performance of their duties.~~

4. All fees collected under this chapter must be deposited in the general fund of the state treasury, except civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors may be deposited in a special securities protection fund. All other civil penalties collected, including those collected for the reasonable expenses for the administration of a particular case, must be deposited in the general fund.

~~5.~~ 4. ~~The commissioner~~ director may honor requests from interested persons for the issuance of a statement or opinion concerning the applicability of this chapter or the rules adopted under this chapter to any transaction or proposed transaction ~~which that~~ may be subject to this chapter. ~~Any such~~ A request must be accompanied by a fee to be set by the commissioner by rule, which may not exceed two hundred fifty dollars.

SECTION 6. AMENDMENT. If House Bill No. 1144 becomes effective, Section 10-04-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10-04-03. Administration of chapter.

1. ~~The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing~~

transaction ~~which~~ that may be subject to this chapter. ~~Any such~~ A request must be accompanied by a nonrefundable fee of one hundred fifty dollars.

SECTION 7. AMENDMENT. Subsection 2 of section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the ~~commissioner~~ director of banking and financial institutions of North Dakota.

SECTION 8. A new section to chapter 26.1-01 of the North Dakota Century Code is created and enacted as follows:

Director of insurance to be substituted for insurance commissioner and division of insurance to be substituted for insurance department. Whenever the term "insurance commissioner" or any derivative of the term is used, except as it relates to section 1 of this bill, the term "director of insurance" shall be substituted therefor. Whenever the term "insurance department" or any derivative of the term is used, the term "division of insurance" shall be substituted therefore.

SECTION 9. AMENDMENT. Section 26.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-06-12. Securities laws. This chapter does not limit or modify ~~in any way any responsibility, authority, power, or jurisdiction of the securities commissioner or of the securities laws of this state.~~

SECTION 10. REPEAL. Sections 6-01-11, 6-01-12, 26.1-01-02, and 26.1-01-08 of the North Dakota Century Code and sections 6-01-03, 6-01-04, 6-01-08, 6-01-10, and 26.1-01-09 of the 1997 Supplement to the North Dakota Century Code are repealed.

SECTION 11. EFFECTIVE DATE. This bill shall become effective on July 1, 2001."

Renumber accordingly

Date: 2-10-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1493

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		/
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glasheim	/				
Rep. Johnson	/				
Rep. Keiser		/			
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/	/			

Total (Yes) 12 No 3

Absent _____

Floor Assignment Martinson

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

REPORT OF STANDING COMMITTEE

HB 1493: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1493 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 6-01, a new section to chapter 10-04, a new section to chapter 26.1-01, and a new chapter to title 26.1 of the North Dakota Century Code, relating to the transfer of duties, functions, and powers of the commissioner of banking and financial institutions, the securities commissioner, and the insurance commissioner to a director of banking and financial institutions, a director of securities, and a director of insurance and to establish a department of commerce under the direction of the insurance commissioner and a state commerce advisory board; to amend and reenact sections 6-01-01, 10-04-03, subsection 2 of section 10-04-05, and section 26.1-06-12 of the North Dakota Century Code, relating to the transfer of the duties, functions, and powers of the commissioner of banking and financial institutions, the securities commissioner, and the insurance commissioner to a director of banking and financial institutions, a director of securities, and a director of insurance; to repeal sections 6-01-03, 6-01-04, 6-01-08, 6-01-10, 6-01-11, 6-01-12, 26.1-01-02, 26.1-01-08, and 26.1-01-09 of the North Dakota Century Code, relating to the appointment and salary of the commissioner of banking and financial institutions, the bond required of the commissioner of banking and financial institutions, the state banking board and the state credit union board, and the salary and official seal of the insurance commissioner; and to provide an effective date.

SECTION 1. AMENDMENT. Section 6-01-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-01-01. Management and control - ~~State department~~ Division of banking and financial institutions. The ~~state department~~ division of banking and financial institutions is under the supervision of the ~~state banking board, state credit union board, and a chief officer designated as the commissioner of banking and financial institutions, and known as the state examiner.~~ Whenever the term state examiner is used in this code, it means the commissioner of banking and financial institutions director of banking and financial institutions. Neither the insurance commissioner nor the director may own, hold, or control any stock, capital, or bond, or hold the office of trustee, assignee, officer, agent, or employee of any financial institution under the director's jurisdiction, or of any corporation engaged in the business of guarantying or ensuring the fidelity or faithful performance of the duties or the solvency of public officers or of public depositaries. The ~~state department of banking and financial institutions~~ division has charge of the execution of all laws relating to state banks, trust companies, credit unions, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions, and other financial corporations, ~~exclusive of~~ except the Bank of North Dakota.

SECTION 2. A new section to chapter 6-01 of the North Dakota Century Code is created and enacted as follows:

Director of banking and financial institutions to be substituted for the commissioner of banking and financial institutions, the state banking board, and the state credit union board - Division of banking and financial institutions to be substituted for department of banking and financial institutions. Whenever the terms "commissioner of banking and financial institutions", "state banking board" or "state credit union board" or any derivative of the terms when used in the context to refer to that position appears in the code, the term "director of banking and financial institutions" must be substituted therefor. Whenever the term "department of banking

and financial institutions" or any derivative of the term is used, the term "division of banking and financial institutions" must be substituted therefor. The director of banking and financial institutions shall assume the duties, functions, and powers of the commissioner of banking and financial institutions.

SECTION 3. A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

Director of securities to be substituted for securities commissioner.
Whenever the term "securities commissioner" or any derivative of the term when used in the context to refer to that position appears in the code, the term "director of securities" must be substituted therefor. The director of securities shall assume the duties, functions, and powers of the securities commissioner.

SECTION 4. AMENDMENT. If House Bill No. 1144 does not become effective, section 10-04-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10-04-03. Administration of chapter.

- ~~1. The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing until a successor has been appointed, confirmed by the senate, and has qualified, unless removed as herein provided. If the senate is not in session, the governor may make an interim appointment, and the interim appointee shall hold office until the senate confirms or rejects the appointment. The commissioner must be skilled in securities and may not be an incumbent of any other public office in the state. The Neither the insurance commissioner nor the director of securities may not own or control any security required to be registered under this chapter and may not or be an officer, director, or employee of any dealer, salesman, investment adviser, or investment adviser representative required to be registered under this chapter. The governor may remove from office any commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.~~

~~It is the prime duty of the commissioner to~~ The director shall administer the provisions of this chapter. The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this chapter. In the absence or disability of the commissioner, the deputy shall administer the provisions of this chapter as acting commissioner.

- ~~2. The commissioner shall have authority to~~ director may administer oaths in, and to prescribe forms for, all matters arising under this chapter. The commissioner director may from time to time make, amend, and rescind such rules, forms, and orders as are necessary under this chapter, including rules and forms governing registration statements, applications and reports, and defining any terms, whether or not used in this chapter, if the definitions are consistent with this chapter. The commissioner director shall cooperate with the administrators of the securities laws of other

states and of the United States with a view toward achieving maximum uniformity in the interpretation of like provisions of the laws administered by them and in the forms ~~which are~~ required to be filed under ~~such~~ law.

- ~~3. In addition to their regular compensation, the commissioner and the commissioner's employees shall be paid travel expenses necessary and actually incurred in the performance of their duties.~~
- ~~4. All fees collected under this chapter must be deposited in the general fund of the state treasury, except civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors may be deposited in a special securities protection fund. All other civil penalties collected, including those collected for the reasonable expenses for the administration of a particular case, must be deposited in the general fund.~~
5. 4. The ~~commissioner~~ director may honor requests from interested persons for the issuance of a statement or opinion concerning the applicability of this chapter or the rules adopted under this chapter to any transaction or proposed transaction ~~which that~~ may be subject to this chapter. ~~Any such~~ A request must be accompanied by a fee to be set by the commissioner by rule, which may not exceed two hundred fifty dollars.

SECTION 5. AMENDMENT. If House Bill No. 1144 becomes effective, section 10-04-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10-04-03. Administration of chapter.

- ~~1. The securities commissioner must be appointed by the governor and confirmed by the senate and shall hold office for a term of four years, beginning on the first day of July following a national presidential election and continuing until a successor has been appointed, confirmed by the senate, and has qualified, unless removed as herein provided. If the senate is not in session, the governor may make an interim appointment, and the interim appointee shall hold office until the senate confirms or rejects the appointment. The commissioner must be skilled in securities and may not be an incumbent of any other public office in the state. The Neither the insurance commissioner nor the director may ~~not~~ own or control any security required to be registered under this chapter ~~and may not~~ or be an officer, director, or employee of any dealer, salesman, investment adviser, or investment adviser representative required to be registered under this chapter. ~~The governor may remove from office any commissioner who fails to discharge faithfully the duties of office or who becomes disqualified under the provisions of this section.~~~~

~~It is the prime duty of the commissioner to~~ The director shall administer the provisions of this chapter. ~~The commissioner shall receive a salary within the amount appropriated for salaries by the legislative assembly. The commissioner shall use a seal with the words "securities commissioner, North Dakota" and such design as the commissioner may prescribe engraved thereon by which seal the commissioner may authenticate documents used in the administration of this chapter. The commissioner may employ such employees as are necessary for the administration of this chapter. In the absence or disability of the commissioner, the deputy shall administer the provisions of this chapter as acting commissioner.~~

2. The ~~commissioner shall have authority to~~ director may administer oaths in, and to prescribe forms for, all matters arising under this chapter. The ~~commissioner~~ director may from time to time make, amend, and rescind ~~such~~ rules, forms, and orders as are necessary under this chapter, including rules and forms governing registration statements, applications and reports, and defining any terms, whether or not used in this chapter, if the definitions are consistent with this chapter. The ~~commissioner~~ director shall cooperate with the administrators of the securities laws of other states and of the United States with a view toward achieving maximum uniformity in the interpretation of like provisions of the laws administered by them and in the forms ~~which are~~ required to be filed under ~~such~~ law.
3. ~~In addition to their regular compensation, the commissioner and the commissioner's employees shall be paid travel expenses necessary and actually incurred in the performance of their duties.~~
4. All fees collected under this chapter must be deposited in the general fund of the state treasury, except civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors may be deposited in a special securities protection fund. All other civil penalties collected, including those collected for the reasonable expenses for the administration of a particular case, must be deposited in the general fund.
5. 4. The ~~commissioner~~ director may honor requests from interested persons for the issuance of a statement or opinion concerning the applicability of this chapter or the rules adopted under this chapter to any transaction or proposed transaction ~~which that~~ may be subject to this chapter. ~~Any such~~ A request must be accompanied by a fee to be set by the commissioner by rule, which may not exceed two hundred fifty dollars.

SECTION 6. AMENDMENT. Subsection 2 of section 10-04-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Securities issued by and representing an interest in or a debt of, or guaranteed by, a national bank or a national bank and trust company or bank or credit or loan or savings association or savings and loan association or credit union organized pursuant to an act of Congress and supervised by the United States, or any agency thereof, or issued or guaranteed as to both principal and interest by an international bank of which the United States is a member, or issued by and representing an interest in or a debt of, or guaranteed by, a state bank, trust company, savings bank, savings institution, or credit union organized and supervised under the laws of any state, and securities of any person subject to examination by the ~~commissioner~~ director of banking and financial institutions of North Dakota.

SECTION 7. A new section to chapter 26.1-01 of the North Dakota Century Code is created and enacted as follows:

Director of insurance to be substituted for insurance commissioner and division of insurance to be substituted for insurance department. Whenever the term "insurance commissioner" or any derivative of the term is used, except as it relates to section 8 of this Act, the term "director of insurance" must be substituted therefor. Whenever the term "insurance department" or any derivative of the term is used, the term "division of insurance" must be substituted therefor.

SECTION 8. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

1. "Board" means the state commerce advisory board.
2. "Commerce commissioner" or "commissioner" means the insurance commissioner of this state.
3. "Department" means the commerce department.
4. "Directors" means the director of banking and financial institutions, the director of securities, and the director of insurance.

Department of commerce under direction of insurance commissioner.

There is established a department of commerce under the direction of the insurance commissioner. The commissioner shall employ a director of banking and financial institutions, a director of securities, a director of insurance, and other competent officials and employees to discharge the duties assigned to the commissioner. Each of the directors must be paid through funds appropriated to the commissioner by the legislative assembly. The commissioner and the commissioner's employees, including the directors and employees of any of the divisions, are also entitled to travel expenses necessary and actually incurred in the performance of their duties.

Appointment of directors. The director of banking and financial institutions, the director of securities, and the director of insurance must be appointed by the insurance commissioner and confirmed by the senate and shall hold office for the term of the insurance commissioner who makes the appointment. If the senate is not in session, the insurance commissioner may make an interim appointment and the interim appointee may hold office until the senate confirms or rejects the appointment. Any director appointed under this section serves at the pleasure of the commissioner.

Duties of the commissioner. The commissioner has the authority and the duty to oversee the administration of all law subject to the authority to the director of banking and financial institutions, the director of securities, and the director of insurance. The commissioner has the authority to implement procedures and policies and to create, amend, and revoke administrative rules in accordance with the authority granted to the directors appointed by the commissioner. All rulemaking authority granted to any of the directors is vested solely in the commissioner. The commissioner shall execute the commissioner's duties within the limits of the funds appropriated to the commissioner by the legislative assembly.

Salary of commissioner. The annual salary of the commissioner is fifty-seven thousand one hundred twenty dollars.

State commerce advisory board. There is established a state commerce advisory board that shall advise the commissioner on issues of the banking, insurance, and securities industries and regulations. The commissioner shall serve as chairman of the board.

1. Appointment to the board. The board consists of twelve members appointed by the insurance commissioner who shall hold office for the term of the insurance commissioner who makes the appointment. Any board member appointed under this section serves at the pleasure of the commissioner.

- a. Three members must be affiliated with and must represent the interests of persons regulated by the division of banking and financial institutions. At least one of these members must be affiliated with and represent the interests of state-chartered banks and at least one of these members must be affiliated with the represent the interests of state-chartered credit unions.
 - b. Three members must be affiliated with and must represent the interests of persons regulated by the division of securities. At least one of these members must be a registered agent with a series seven examination and at least one of these members must be a registered agent with a series six examination.
 - c. Three members must be affiliated with and must represent the interests of persons regulated by the office of the insurance commissioner. At least one of these members must be a licensed property and casualty insurance agent and at least one of these members must be a licensed life and health insurance agent.
 - d. Three members must be members of the general public and may not be associated with any of the persons regulated under any of the foregoing and are knowledgeable consumers of the financial services, securities, and insurance industries.
2. Compensation of board members - Expenses. Each appointed member of the board is entitled to receive sixty-two dollars and fifty cents per day as compensation for the time actually spent devoted to the duties of the board and is entitled to receive necessary expenses in the same manner and amounts as state officials for attending meetings and performing other duties of the board.
3. Duties. The duties of the board include:
- a. Conducting meetings on at least a semi-annual basis;
 - b. Reviewing and discussing the statutes, rules, policies, and procedures administered by the commissioner;
 - c. Reviewing and discussing new developments and trends in the industries regulated by the commissioner;
 - d. Reviewing and discussing consumer and investor education and protection for residents of this state; and
 - e. Making recommendations to the commissioner regarding potential legislative or administrative changes.

SECTION 9. AMENDMENT. Section 26.1-06-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-06-12. Securities laws. This chapter does not limit or modify ~~in any way any responsibility, authority, power, or jurisdiction of the securities commissioner or of the securities laws of this state.~~

SECTION 10. REPEAL. Sections 6-01-11, 6-01-12, 26.1-01-02, and 26.1-01-08 of the North Dakota Century Code and sections 6-01-03, 6-01-04, 6-01-08,

6-01-10, and 26.1-01-09 of the 1997 Supplement to the North Dakota Century Code are repealed.

SECTION 11. EFFECTIVE DATE. This Act becomes effective July 1, 2001."

Renumber accordingly

1999 TESTIMONY

HB 1493

TESTIMONY FOR HOUSE BILL NO. 1493

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions

House Bill No. 1493 is nearly identical to House Bill No. 1255 before the Fifty-fourth Legislative Assembly. I testified neutral on House Bill No. 1255 but indicated, "I have never been opposed to discussions concerning the combining of the Department of Banking and Financial Institutions with the Insurance and Securities Departments. I am opposed, however, to any plan that is not done right and results in inefficient supervision."

The idea of consolidating various regulatory agencies into one department is not new and has been before this legislative body in several forms and on several other occasions. The fiscal note prepared from the OMB is nearly identical to the 1995 fiscal note and again indicates time constraints did not allow a more thorough study. There have been attempts to perform the studies, but none have been completed. House Concurrent Resolution No. 3028 adopted by the Fifty-fifth Legislative Assembly directed the Legislative Council to study the feasibility and desirability of establishing a Department of Commerce. On May 5, 1997, the Legislative Council decided not to give House Concurrent Resolution No. 3028 priority and therefore chose not to study the Resolution. Additionally, the Governor's Office, OMB, the Securities Commissioner, and myself met last year

to discuss if any benefits to consolidation could be achieved. Our preliminary review indicated there is very little interaction between banking, securities, and insurance, and that it is unlikely that if securities and banking were merged that any positions could be eliminated. Therefore, consolidating will not result in any cost savings, but must be done only if other benefits could be identified that outweigh consolidation costs.

Consolidation of the agencies could occur without having to co-locate all divisions, but if any efficiencies or cost savings could be achieved, co-location is necessary. House Bill No. 1493 may require the Department to relocate two times. First, after August 1, 1999, Securities and Banking are consolidated. Second, if the voters approve the removal of the Insurance Commissioner as a constitutional officer, a relocation to combine all three agencies will occur after January 1, 2001. The Department has moved twice since 1997. The cost to relocate just the Department of Banking and Financial Institutions for moving was \$7,121. The largest portion (\$5,000) is attributed to telephone rewiring to meet state specifications. Additionally, other incidental costs related to change of address such as letterhead, business cards, was calculated at \$700.

I have served since September 1986 as the Department's Commissioner. During that time I have gotten to know all of my state counterparts in bank and credit union supervision. Additionally, I serve on an Accreditation Review Team

and have been involved in reviewing five states: Texas, California, Georgia, Tennessee, and Alabama. Tennessee, Georgia, and California were similarly structured to North Dakota. In California, due to the recent change in the Governor's Office, the Commissioner and three of four Deputy Directors are being replaced. In Minnesota, the Department of Commerce is structured differently than as proposed in House Bill No. 1493 as there are no banking or credit union boards. The Deputy Commissioner for Minnesota has all the responsibility to conduct examinations of banks and credit unions and to supervise those institutions, but does not have authority for taking any necessary action. In South Dakota, Commissioner Duncan has told me that within the Department of Commerce he very seldom has a need to talk to the Commerce Commissioner and almost never has reason to talk to other division directors.

Only 11 states list securities, insurance, and banking under a Commerce Department, and several more states are structured within different agencies. The largest number of states (26) have separate independent agencies to regulate each industry or some combination, e.g. banking and credit unions.

My conclusion has been that there is no one best way of structuring regulatory functions, but what is important is that the regulatory functions are structured in a way that best meets the needs of the respective state.

Based upon my knowledge of other states and the federal regulatory agencies, I strongly believe that it is essential that the Commissioner and the agency operate with some independence and that the Commissioner must be appointed for a term rather than serve at the pleasure of the Governor. Responsibilities of the office to act on various applications, or when it is necessary to take appropriate enforcement action require those actions be dealt with within the agency rather than in the Governor's Office.

I urge that before this Committee grants a "Do Pass" to House Bill No. 1493, that a study be conducted to address any tangible benefits to consolidation and properly identify all costs associated with consolidation, and until a study is completed consolidation should not be allowed to proceed.

TESTIMONY FOR HOUSE BILL 1493
Prepared by Representative Merle Boucher
Monday - February 1, 1999

Chairman Berg and members of the Industry, Business and Labor Committee. For the record I am Representative Merle Boucher, from District 9, which is all of Rolette County

A great amount of time and thought has been put forth into efforts to streamline government and to make it's operations more efficient. Though HB 1493 does appear to want to streamline government, I personally feel that the final result would be just the opposite.

Unfortunately, HB 1493 would create another cabinet level agency a department of commerce. The bill suggests that we can make state government more efficient by placing the Banking Commissioner, the Securities Commissioner, the Labor Commissioner and the Insurance Commissioner under the umbrella of a new Department of Commerce. Realistically each of the offices (departments) transferred to the Department of Commerce bring their staff's and responsibilities, so from a cost savings standpoint, I question whether or not we would save money and, I can foresee increased spending to cover the cost of the newly created Department of Commerce.

I also find a serious flaw in the suggestion to change the Insurance Commissioner from an elective position to an appointed position. This has been an elected position since the inception of the office. The people of North Dakota prefer to elect their executive department level people. I can see this as an issue that would prompt a referral campaign.

The amendment that I am submitting to you today will in fact create a commerce position, which would represent an important segment of the economy. My recommended amendment will also create efficiencies by addressing the wishes of HB 1493 in a more streamlined way by building upon two existing executive positions the office of the Commissioner of Agriculture and the Insurance Commissioner, both elected officials.

The amendments that have been submitted offer opportunities to streamline government and an opportunity for significant financial savings.

Chairman Berg and committee members, I urge you to give careful thought to all of the possibilities for better government and fiscal savings.



DEPARTMENT OF INSURANCE STATE OF NORTH DAKOTA

Glenn Pomeroy
Commissioner of Insurance

BASIC FACTS: NORTH DAKOTA'S INSURANCE INDUSTRY AND THE NORTH DAKOTA INSURANCE DEPARTMENT

- The Insurance Department is responsible for licensing over 15,000 agents and 2,000 companies seeking to do business in North Dakota.
- In 1997, our residents paid over \$1.9 billion in premium for all types of insurance.
- In 1997, the Department collected \$17.5 million of insurance premium tax for deposit into the General Fund.
- In 1997, companies paid over \$1.8 billion to North Dakota policyholders in the form of claims paid or benefits conferred.
- In addition, the Department collects license fees and fines which are paid into the Insurance Regulatory Trust Fund to finance the Insurance Department.

The Insurance Department's annual budget for regulatory activities is \$2.1 million.

Each year, between \$500,000 and \$1 million is transferred from the Insurance Regulatory Trust Fund to the General Fund.

- ❖ **Over the last two years, the Insurance Department helped North Dakotans recover nearly \$25 million in benefits which were at first denied.**

HB 1493
House Industry, Business & Labor Committee
February 1, 1999
Testimony of Syver Vinje, Securities Commissioner

Mr. Chairman and members of the Committee. I am here to testify in support of HB 1493.

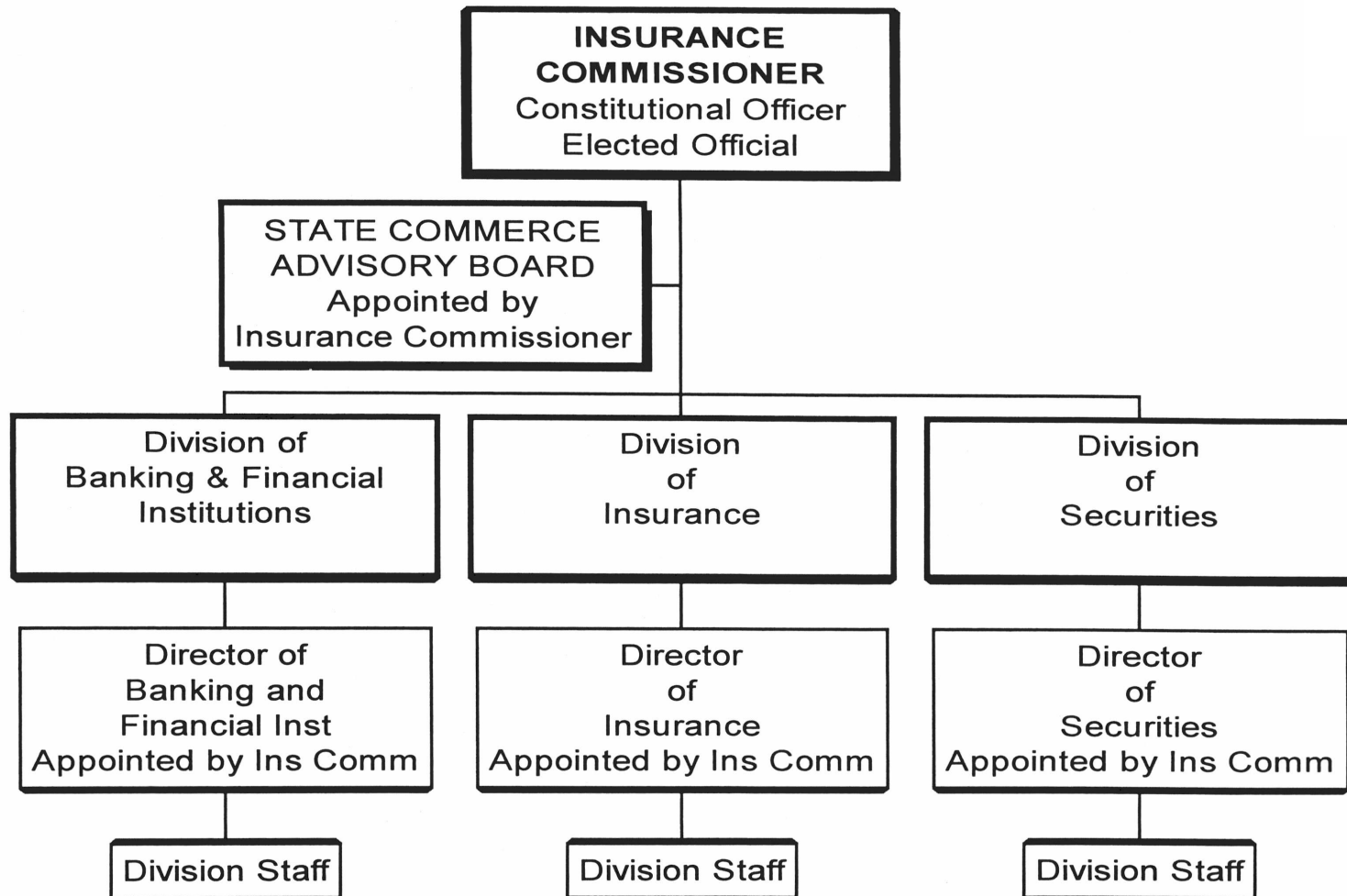
Across the Nation, the financial services industry is facing major changes in the way business is done. The lines of distinction between securities, insurance and banking have been significantly blurred, and that process is far from over.

The specific direction of many of those changes is still up in the air. HR 10, The Financial Services Modernization Act was almost enacted by Congress last year. Knowledgeable observers predict that the bill will pass this year, although in what final form remains to be seen.

I believe there is need for substantial amendment to the bill as drafted, but the basic concept makes sense. If we are to be proactive in meeting the challenges of changes at the federal level, it only makes sense that one regulatory agency be formed to represent the public interest in dealing with industry wide concerns. HB 1493 is a significant step in the right direction.

I urge the committee to allow further discussion and amendment, before taking action on this bill.

Department of Commerce
Prospective Organization Chart



Overall supervision of financial services industry and administrative rule making power vested in Insurance Commissioner responsible to voters
The State Commerce Advisory Board is composed of members representing the regulated industry and the public
Administration of Divisions vested in Division Directors, including decision making in division administrative hearings
Insurance Commissioner does not have appeal or veto rights over division decisions. District Courts are courts of appeal
This should provide proper focus and insulate both the Insurance Commissioner and the Division Directors from undue political influence

The present financial services regulatory framework is inherently preserved, while providing a mechanism for timely response to changes in federal law and a means to foster cooperation between the divisions