

2001 HOUSE APPROPRIATIONS

HB 1010

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1010

House Appropriations Committee  
Government Operations Division

Conference Committee

Hearing Date January 17, 2001

Tape Number	Side A	Side B	Meter #
01-17-01 tape #2	0 - 6216	0 - 1030	
Committee Clerk Signature <i>Kathleen Hall</i>			

Minutes:

The committee was called to order, and opened the hearing on HB 1010, the Insurance Commissioner's appropriations budget. Vice-chairman Carlisle called the meeting to order. The committee had a quorum, and Chairman Byerly was excused for the beginning of the hearing.

Jim Poolman: North Dakota Insurance Commissioner. He had written testimony. There are appendixes attached to the written testimony that will be referred to as he speaks.

Commissioner Poolman introduced the members of his staff with him. The staff will be available during the session. The deputy commissioner could not be here, he went home sick this morning. Appendix A is the organizational chart. Gave a brief introduction about the department and his goals for the department. Believes the Insurance Department is a consumer protection division. They try to preserve a balance of competition in the market but still protect consumers on the agent and company sides. Have many functions within the department for protection. (see written testimony page 2) One of the positions eliminated in the budget is an

actuarial position, but we want to make sure our decisions are made on the facts, and not subjectively made, and we want to make sure we have all the actuarial information, to compare with the company actuarial information to make sure our decisions are the most informed and accurate. The agency also has a consumer hotline discussed on page 2 of the written testimony. The department received 12,384 consumer hotline telephone calls in 2000. In 1999, the department retrieved about 1.8 million in relief for consumers and we fined insurance company agents approximately 252,000. That is important because that 252,000 also helps run the department. I will explain that trust fund later. This is the proactive stance we take for consumers. We also believe that market conduct exams are very important and the legal department does that, to make sure the competition is fair between insurers and for the consumers.

The insurance industry in North Dakota is important to our economic landscape in the state. We think the industry is healthy, but I feel there needs to be a little more competition within the industry. In 1999 there were \$2.2 billion in paid premiums by insurance, and \$2.1 billion paid in claims. Appendix B shows a break down of how the premium is paid, and also shows paid losses and benefits. Premium taxes go into the general fund. This is a 2% premium tax on all life insurance premiums and a 1.75 % tax on property and casualty premiums. North Dakota is considered a retaliatory state which means we collect a higher rate on casualty because other states collect a higher premium tax than we do. On the life and health side our premium tax is a little higher than other states. In 1999 we collected \$21.4 million in premium taxes and in 2000 we collected \$26.6 million. This goes to the general fund. We also pay out \$5.2 million in payments to fire districts, which will be discussed later.

The Insurance Regulatory Trust Fund comes from license fees and fines collected from the agencies and companies. In the last legislative session there is a float of \$1 million, or a cash flow for the insurance department because we are collecting fines and fees from agents and companies that can change and so the statute provides a million dollar float, down from \$1.5 million. At the end of the fiscal year, anything over that million dollar level is transferred to the general fund. In fiscal year 2000, \$1.8 million was transferred to the general fund, after the million dollar float.

I think there are going to be big sweeping changes in regulating insurance. Believes in state regulation of insurance, and most people believe that local government can do a better job for the people than can a government that is not necessarily a hands-on. What is best in California, Florida, and Illinois is not the best for consumers of North Dakota. The passage of the Financial Services Modernization Act (Gramm-Leach-Bliley Act) softened the lines of definition between securities and banking and insurance. It is going to be very important for the insurance department and other regulatory agencies to enforce regulations and have a stronger set of regulations for enforcement of this Act. The department would like more uniformity across state lines in regulating insurance, and not let Congress usurp state powers. Privacy will be a big debate issue. Market Conduct Exams are going to become more necessary.

The department has several other functions, outside of just regulating insurance, that they do very well. They have a Senior Health Insurance Counseling Program (SHIC) (see page 4 of the written testimony); Fire and Tornado Fund; (see page 4 of the written testimony); State Bonding Fund (see page 4 of the written testimony); Petroleum Tank Fund (see page 4 of the written testimony); Boiler and Pressure Vessel Inspectors (see page 5 of the written testimony);

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Anhydrous Ammonia Facility Inspection (see page 5 of the written testimony); and the Unsatisfied Judgment Fund (see page 5 of the written testimony).

Page 5 begins testimony on the executive budget recommendations. SECTION 1: The Insurance Department currently employs 45.5 FTE's. 4 of the FTE's are currently vacant (see appendix to the vacant positions). The executive budget eliminates one of the FTE's, and this position was vacant because the former commissioner entered into a contract with a former employee who now works for the Kansas Insurance Dept to do rate and actuarial work. Commissioner asks that he be able to keep this position within the budget so he could review the contract and decide for himself. Remember his initial comments, that the decisions of the department should not be subjective and should be based upon actuarial analysis. With the reinstatement of this FTE this would be a no growth budget in terms of the number of FTE's and this has been the status quo on FTE's for past budget cycles. (see appendix C). He believes that part of the reason this position was eliminated by the executive recommendation was because this was one of the only elected officials offices that was not allowed a hearing before the OMB for budget preparation. Not really sure why this happened, but he believes that OMB did not have a rationale of why the position was open, and therefore just eliminated it. The other three positions have been vacated in the year 2000, and due to health problems the number is quite high this year. These were vacated in the middle of year 2000, and not filled because the exiting commissioner wanted the new commissioner to fill these, reclassify, or change the positions.

Rep. Carlisle: On this vacant actuarial position, it is still marketable, and high in demand?

Response: The position is budgeted for \$50,000 a year. He cannot guarantee that we could fill an actuarial position for \$50,000 per year. The deputy commissioner came from a life

insurance company and we have visited about that, and there is a possibility to fill that position is necessary. We want someone who is qualified.

Jim Poolman: continuing: The balance of the salary portion of the budget includes the executive recommendation of the salary package . And the operating line item of their budget there is a total increase of \$54,407 from the previous budget, due to increased assessments from the risk management fund, and due to increased costs from ITD. These are basically assessments from ITD.

SECTION 2: Provides the \$5.2 million appropriation for redistribution of a portion of the insurance premium tax to the local fire districts (see appendix D). This has not been changed since 1989.

SECTIONS 3, 4, 5, 6: provide the source of funding for the special funds that the Insurance Department administers. The figures in this section are also included in Section 1. They have adjusted slightly from the previous biennium, but the total administrative expenses for the department stays the same, except for the increases in ITD, and risk management, and software.

SECTION 7: Provides for the new salary for the commissioner.

Rep. Koppelman: Can you explain to me how the unfilled FTE and the services are provided by a contract fee. Are the dollars to pay the contract fee then taken from the appropriated position or from somewhere else?

Response: We have a line item in our budget for contract services. I have the numbers that I intend to pay the actuarial if you want to see these at some other time.

Rep. Koppelman: You mentioned the anhydrous tank inspection function, and our committee has discussed this. When that responsibility was placed in the insurance dept. In the 1995 session, was there an appropriation, or just the responsibility.

Response: This is a confusing issue for me. The anhydrous tank fund was created in 1995 session, and was placed in the agriculture department. What has happened is that our boiler inspectors in our department have done some of the inspection and examinations. I don't believe that it is written clearly in the law as to how the reimbursement was supposed to take place from the anhydrous tank fund to the insurance department. The Fire and Tornado fund gave some of the moneys to get this off the ground. The boiler examiners do the inspections, and we would like some reimbursement from the anhydrous tank fund.

Rep. Koppelman: His understanding is that the agriculture department does the licensing and clerical, supervisory functions, and your department does the inspection.

Response: I would encourage this committee to take a close look at this.

Rep. Skarphol: In regard to this same issue, how many boiler inspectors do you have in your department and what percentage of their time is spent on anhydrous inspections.

Response: I am going to have Jeff Bitz answer this.

Jeff Bitz: We have estimated that 30% of our boiler inspector time is spent on anhydrous inspection. We have 3 inspectors, and 1 administrative clerk. Probably a cost of \$84,000 per biennium.

Rep. Koppelman: Did your department have to add staff in order to undertake the anhydrous inspection functions, or are these the same persons, taking on new responsibility.

Response by Jeff Bitz: I am not sure if we added staff.

Jodi Burke, business manager: Has more history with the department, says that the department did hire 1 FTE to do these inspections.

Rep. Skarphol: Can you tell us the dollars in these various funds - Fire and Tornado, State Bonding, Petroleum Tank - and where is the dollar amount of the fees collected going?

Response, Jim Poolman: Reserve balances in funds - Unsatisfied Judgment has a \$307,000 balance, and there is a minimum balance required of \$150,000; the State Bonding Fund has a balance of \$4.9 million, with a minimum required of \$2.5 million; the Fire and Tornado Fund has a balance of \$15.8 million, with a minimum of \$12 million; the Petroleum Tank Fund has a balance of \$8.7 million, with a minimum of \$5 million. There is going to be legislation introduced to change some of the fees on the petroleum tank fund.

Rep. Skarphol: Are the fees the same for all tanks regardless of size?

Response, Jeff Bitz: Farmers are exempt, but the fees are the same regardless of size.

Rep. Skarphol: As far as the overage above the minimums in these funds, is there any obligation or provisions that these funds can be transferred to the general fund.

Response, Ken \_\_\_\_\_: His is the department auditor, and he does not have the actual dollars and maximum dollars. The intent of the overage, of the Fire and Tornado balance, they want to make sure there is enough funds to cover any outstanding claims in a catastrophic time.

Rep. Skarphol: Being enough funds is one thing, having redundant funds is another. What happens when this fund continues to build to a point where there is all this money laying there and cannot get used.

Response, Ken \_\_\_\_\_: That would be the decision of someone to set the maximums.



Response, Jeff Bitz: There must be a reasonable balance between the fund claims and premiums, and the law requires that a minimum be held. Lately we have had more claims than premiums.

Rep. Skarphol: Is there an industry standard that would reflect what would be appropriate if you have \$3.5 million in premiums, what would be the appropriate reserve.

Response, Jeff Bitz: I don't know if there is a standard. We can look into this.

Rep. Byerly: The committee would also be interested in these funds what sort of draw down there has been in the last four years. Would like a listing of funds coming in and funds drawn out.

Rep. Huetter: When we started the tank fund wasn't there a minimum and a cap on the fund.

Response, Jeff Bitz: There is a minimum of \$5 million, and the fund would reimburse the tank owner.

Response, Jim Poolman: Keep in mind the pending legislation in comparison with what you do with the tank fund.

Rep. Koppelman: What do these minimums mean, what if these funds fall below these amounts?

Response, Jim Poolman: In terms of some of them where there are premiums, we would have to adjust the premiums. For the State Bonding Fund ...

Response, Jeff Bitz: ... the statute sets forth that we would have to charge a certain dollar amount per employee per household to cover that until we exceed the cap.

Rep. Skarphol: On the underground tanks, what is the fee?

Response: \$50.00.

Rep. Skarphol: In regard to HS 1143 and the boiler inspection. What is that fee?

Response: That bill is being deliberated in IBL right now, and that increases the cap on standard boiler inspections and special boiler inspections. The special inspection goes to \$350 I believe per boiler and the certificate change for \$5.00. Our boiler inspection program cannot recoup its costs necessary to run the program, it has run basically \$100,000 behind, so we are making some changes to help increase the revenue. We are not going to the cap, but are going in like \$5 increments. Our intention is not to increase to the cap, just to recoup costs. Expect 4632 inspections every 2 years, the fee is incurred by the owner of the boiler at a fee, dependent on the size of the boiler, between \$35 and \$90.

Rep. Carlisle: On the actuarial contract, doe you have a flexibility to hire?

Response: If we were to terminate the contract with the person who holds the contract, we would give them notice.

Chairman Byerly: Has a handout from facilities management to the Insurance Department about doing some work up there. Chairman Timm and he toured the offices upstairs, and hopefully the rest of the committee can see the department. Read the handout.

Jim Poolman: We are planning an open house on Tuesday, next week, to take a look at the facilities.

Lois Hartman, Executive Director of the North Dakota Firefighter's Association: she had written testimony and handed it out. She is in support of HB 1010 and specifically Section 2 of the Insurance Department Budget. She also has a prepared proposed amendment to submit that deals with the appropriation for the 388 fire departments. In June of 2000, the Fireman's Association was changed to the Firefighter's Association. Another bill has been presented to do housekeeping to change the name. She is requesting an increase in the appropriation for the fire departments from 5,200,000 to 5,800,000 for the biennium, and an addition to line 20, at the

request of fire departments to drop the current rate structure and assess them differently. This change is part of the housekeeping bill, but the requested language in her amendment is necessary due to the lost revenues in that bill.

Chairman Byerly: Of the \$5.2 million in the Insurance Tax Distribution Fund, how much money has to remain in the fund at any given time?

Response: That fund has to maintain a zero balance at the end of the biennium. The practice has been that starting with the annual payments in June, when the annual reports come in, we have deposited everything into that fund. And then everything from that fund goes into the general fund.

Chairman Byerly: In a given year how much do we collect in fire insurance premiums above the \$5.2 million or \$5.8 million.

Response, Lois Hartman: If you calculate it on the five lines of insurance I do not have these numbers.

Response, Ken from the Insurance Commissioners Office: The \$5.2 million comes out of the insurance premiums collected each year. The first \$2.6 (year) go to the special fund for this purpose, and the balance goes into the general fund. The total of the premiums is averaging about \$21 million a year.

Chairman Byerly: Requests from the Insurance Department that they provide to the committee the amount of fire insurance premiums above the requested appropriation before the committee votes on the bill.

Arlo Briesbach, President of the ND Firefighter Association, and Fire Chief of Powers

Lake Fire District: He has provided written testimony, that includes a profit and loss statement of the Powers Lake Fire District. They show a loss in the budget, because the costs are going up.

