

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1114

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1114

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/15/09

Recorder Job Number: 7085

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Grande: We will open the hearing on HB 1114. We will have the clerk read the title.

The title was read by the clerk.

Steve Cochran, Executive Director of the Retirement and Investment Office and Chief

Investment Director for the State Investment Board, offered testimony in support of HB 1114.

See attachment #1.

Steve Cochran: This is a housekeeping bill and what it is relating to is the fact that as you know chapter 21-10 is the enabling ordinance for the State Investment Board and included in 21-10 in section 21-10-06 is a list of the funds that are assigned to the State Investment Board by statute. Now we do also have some contractual clients that come to us and ask us to manage their money as allowed under this same chapter but certain funds are assigned to the State Investment Board. And so this list simply lists those funds. Now what has happened, we noticed that during this biennium is that over time a couple of changes have been made, funds assigned to the State Investment Board, or taken away from the State Investment Board, for example, say by the Treasurer's Office. And they went somewhere in state statute, but not in our chapter. So what this will do is simply bring us up to current as to where we stand on what

is statutorily assigned to the State Investment Board. I'd also add to that that I do know of at least two bills outstanding that would be suggesting that these funds, additional funds be added to the State Investment Board so this simply reflects what is actually in the code now, somewhere, but not necessarily in 21-10.

Chairman Grande: What happened to the veteran's cemetery trust?

Steve Cochrane: That was a fund managed by the Treasurer's Office. And for some time it was under the oversight of the State Investment Board, and Treasurer Schmidt opted to have, to take control of that fund for investment purposes.

Chairman Grande: Steve, is the petroleum tank release compensation fund, is that something that's fairly new? Your number 12 on the bill.

Steve Cochrane: It's been around quite a while. I've been here 12 years, and I know we had it then.

Chairman Grande: Just never made it into this list. Is that the deal?

Steve Cochrane: Correct.

Rep. Froseth: The budget stabilization fund. Where has that been? Just in the general fund?

Steve Cochrane: No. My understanding of that fund is that it has come and gone over the years. It exists but may not have money in it. But I think it was two bienniums ago that the legislature assigned the State Investment Board to manage the budget stabilization fund.

Rep. Froseth: In response to your question about the petroleum tank release compensation fund, I think that's the fund that's created by a quarter of a cent, half a cent a gallon by the petroleum market. It goes into a fund that is used to clean up spills and that type of thing. I don't know where it's been before.

Chairman Grande: Do you know?

Larry Martin: That is correct. My name is Larry Martin and I am the Account/Budget Specialist for the Insurance Department. I don't know the percentage of tack ons at the gas pump. Our agency, we bill the petroleum marketers an annual billing, and they just pay us an annual fee rather than a per gallon amount. But you are correct. The money goes into a fund that cleans up spills.

Rep. Amerman: Along the lines on the petroleum fund we had a bill in IBL the other day. I think it started out as a quarter cent tax that would go into this fund, but I think that went away, and I think there's fees paid now by whoever is affected by petroleum.

Larry Martin: That is correct.

Chairman Grande: Any other questions from the committee?

Rep. Conklin: I was curious. You said there were some other funds invested with you? It has nothing to do with the bill. I was just curious what those other funds would be.

Larry Martin: Madam Chairman. It relates to the Insurance Department, the petroleum trust.

Rep. Conklin: I was just curious. You mentioned that there were some other funds that were invested with you sometimes. You sounded like they were private funds. Is that true?

Steve Cochrane: The way that works is any agency, political subdivision of the state or a state institution can ask the State Investment Board to manage its investments. Now the way our attorney has interpreted this is that they do have the right to access the State Investment Board at their will. Often times the perception is that the State Investment Board could potentially be in conflict with private interests for managing investments. And so I know for example the city of Minot contacted the State Investment Board for the consideration for a change in investment management a couple years ago. Ultimately it was decided by the city council that they would prefer to keep that invested privately. And so I think they chose one of the banking institutions that is in Minot. But we do, however, for example manage investments

for the city of Bismarck police department. This is a very longstanding relationship. The city employees of Bismarck would be another good example. But it's essentially a case where if they do qualify as a state institution or agency or a political subdivision, then they can ask us for our services. We never market them. We're not proactive in trying to add to our client list.

Rep. Amerman: Steve, I guess a two-part question on the veteran's cemetery trust fund. Any idea what was in there before the Treasurer's Office took it over. Another part of the question is it's in code that this is under your auspice, the veteran's cemetery fund, was there a bill to change it to the Treasurer? Can they just come and take it without changing the code? How does that work?

Steve Cochrane: I believe they must, if it were assigned to us statutorily, it must have been legislatively changed at the request of the Treasurer. Previously, I believe we had part of the funds? Is that right? Oh, in it's entirety.

Connie Flanagan: My name is Connie Flanagan. I am the fiscal investment officer at the agency. We had the funds for the veteran's cemetery for a few years. I'm thinking it was about six or eight years. They were very conservatively invested in the cash equivalent type of investment. It was a very small fund. It was less than \$100,000. I think it started out maybe around \$40,000 to \$50,000 and it grew up to around \$100,000 and that we invested in cash equivalent investment in a pool with other funds and last session there was a bill introduced that moved that fund from the State Investment Board to the State Treasurer's Office.

Chairman Grande: Any other questions from the committee? Thank you Mr. Cochrane. Is there anyone else who wishes to testify on 1114? Is there anybody who wishes to speak against 1114. Close the hearing on 1114.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1114

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/15/09

Recorder Job Number: 7086

Committee Clerk Signature

Lou Engelson

Minutes:

Chairman Grande opened the hearing on HB 1114.

Rep. Boehning: I move a do pass.

Chairman Grande: I have a do pass motion by Representative Boehning. Do I have a second.

Rep. Wolf: Second.

Chairman Grande: I have a do pass by Representative Boehning. Second by Representative Wolf. Discussion? The clerk will call the roll.

The roll was called by the clerk.

12 yes votes, 0 no votes, 1 absent. Representative Amerman was assigned to carry the bill.

FISCAL NOTE
Requested by Legislative Council
12/22/2008

Bill/Resolution No.: HB 1114

1A. **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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

Updates current funds under the management of the State Investment Board. Removes funds no longer managed and adds funds not previously listed. There is no fiscal impact.

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.*

N/A

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.*

N/A

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.*

N/A

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 is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Connie Flanagan	Agency:	Retirement & Investment Office
Phone Number:	328-9892	Date Prepared:	12/22/2008

Date: 1-15-09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

House **Government and Veterans Affairs** Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Boehning Seconded By Wolf

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper					
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Amerman

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

REPORT OF STANDING COMMITTEE (410)
January 15, 2009 2:32 p.m.

Module No: HR-08-0385
Carrier: Amerman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1114: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1114 was placed on the Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1114

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1114

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 25, 2009

Recorder Job Number: 9685

Committee Clerk Signature

Era Libelt

Minutes:

Steve Cochrane, Executive Director of the Retirement and Investment Board: Written testimony in favor of House Bill 1114.

Senator Potter: So you're operating illegally now?

Steve: We're not the funds that are assigned to us may be listed in different statute; this just brings them together under one listing.

Senator Potter: The budget stabilization fund is that currently being administered by your agency?

Steve: Yes they are.

Senator Wanzek: Why are some funds controlled by the state treasury and others under the state investment board?

Steve: It seems that there are certain funds over time, which has been assigned to the treasury. That treasurer had discretion to either place with the state investment board for assistance in the administration of the investment or to take them back within the walls of the treasury department. And so we've seen between two different administrations in the last twelve years generally some changes relative to their preferences on how they'd like to see those managed. For example if we look at number nine it's listed here as the veterans

cemetery trust. That was at one time assigned statutorily to the state investment board and the treasurer liked it that way at that time. The new treasurer entered a bill to have that removed from our obligation and take over management of the veteran's cemetery trust fund. The ultimate decision on how some of these are decided on how they will be assigned. I really can't tell you.

Senator Potter: In the last year how much money have we lost?

Steve: It's been a brutal year. We measure things on a fiscal year basis, so we're looking at currently that the pension trust is probably down around thirty percent.

Chairman Klein: Thirty percent could mean twenty million?

Steve: No, thirty percent could mean we are approaching a billion dollars. I will say that ninety three percent of losses we have seen are prime real losses. Which means we still have the under lying shares, we still have the under lying bonds. It just in the market where credit conditions are tight and anything below a treasury rated bond is virtually not trading. We are in a situation where we have to mark to market. So we have to show bonds at what we would get them if we had to sell them on that particular day. So that portion of our portfolio is going to reflect the frozen credit market and of course the stock market has reacted initially to that and then to recessionary information and declining corporate market.

Senator Potter: So are you in a position where you need to sell these things at the discounted level or can you hold?

Steve: We've been trying to hold. So we've used one of the managers out of Minneapolis, with the Clifton Group, who was able to do what they call an overlay program that allows us to maintain our balances. So far so good. We do always rebalance to cash as a standard policy.

So we have not found ourselves in a position of stress relative to making benefit payments. Haven't had to sell securities to make payments.

Senator Horne: On the bill I noticed it looks like the petroleum compensation fund was added as a fund you're going to manage first. What is this?

Steve: This fund has actually been under the administration of the state investment board for at least twelve years. Why it had not appeared in this statute I can't say. It probably appeared in a statute, I believe the department of insurance that oversees that fund. It was probably an oversight that is being corrected.

Senator Horne: And what is the fund?

Steve: The ultimate purpose for it, I'd have to get back to you on it.

Chairman Klein: It is a fund for someone who has a spill. Someone who has underground or above ground tanks. It's an insurance fund for those who should be paying this premium on an annual basis.

Senator Andrist: Motion for a do pass.

Senator Nodland: Seconded

Row Call Vote: Yes: 7 No: 0 Absent: 0

Floor Assignment: Senator Behm

REPORT OF STANDING COMMITTEE

HB 1114: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1114 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1114

TESTIMONY OF
STEVE COCHRANE
ON
HOUSE BILL NO. 1114

*Same given
to Senate.*

Madame Chair, members of the committee, good morning. My name is Steve Cochrane and I am the Executive Director of the Retirement and Investment Office and serve as Investment Director for the State Investment Board.

HB 1114 clarifies the current status of funds assigned to the management of the State Investment Board in Century Code Chapter 21-10-06. We recognize that there may be additional funds added to this list by legislative action this session, but this bill would reflect the current status accurately.

On behalf of the State Investment Board, I would sincerely appreciate your support of this housekeeping revision. Thank you.

Attachment #1

CHAPTER 21-10 STATE INVESTMENT BOARD

21-10-01. State investment board - Membership - Term - Compensation - Advisory council.

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three of the elected members of the public employees retirement system board as selected by that board. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee, are entitled to receive as compensation sixty-two dollars and fifty cents per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

21-10-02. Board - Powers and duties. The board is charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents must be custodian of securities purchased on behalf of funds under the management of the board. The board may appoint an investment director or advisory service, or both, who must be experienced in, and hold considerable knowledge of, the field of investments. The investment director or advisory service shall serve at the pleasure of the board. The investment director or advisory service may be an individual, corporation, limited liability company, partnership, or any legal entity which meets the qualifications established herein. The board may authorize the investment director to lend securities held by the funds. These securities must be collateralized as directed by the board. The board may create investment fund pools in which the funds identified in section 21-10-06 may invest.

21-10-02.1. Board - Policies on investment goals and objectives and asset allocation.

1. The governing body of each fund enumerated in section 21-10-06 shall establish policies on investment goals and objectives and asset allocation for each respective fund. The policies must provide for:
 - a. The definition and assignment of duties and responsibilities to advisory services and persons employed by the board.

- b. Acceptable rates of return, liquidity, and levels of risk.
 - c. Long-range asset allocation goals.
 - d. Guidelines for the selection and redemption of investments.
 - e. Investment diversification, investment quality, qualification of advisory services, and amounts to be invested by advisory services.
 - f. The type of reports and procedures to be used in evaluating performance.
2. The asset allocation for each fund, to be effective, must be approved by the governing body of that fund and the state investment board by January first of each year. If the asset allocation is not approved, the previous asset allocation remains effective. The governing body of each fund shall use the staff and consultants of the retirement and investment office in developing asset allocation and investment policies.

14. **21-10-03. Cooperation with Bank of North Dakota.** Repealed by S.L. 1987, ch. 190, §

21-10-04. Board - Meetings. The state investment board shall select one of its members to serve as chair, one to serve as vice chair, and shall meet at the call of the chair, investment director, or upon written notice signed by two members of the board.

21-10-05. Investment director - Powers and duties. Subject to the limitations contained in the law or the policymaking regulations or resolutions adopted by the board, the investment director may sign and execute all contracts and agreements to make purchases, sales, exchanges, investments, and reinvestments relating to the funds under the management of the board. This section is a continuing appropriation of all moneys required for the making of investments of funds under the management of the board. The investment director shall see that moneys invested are at all times handled in the best interests of the funds. Securities or investments may be sold or exchanged for other securities or investments.

The investment director shall formulate and recommend to the investment board for approval investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions, and restrictions upon the methods, practices, or procedures for investment, reinvestment, purchase, sale, or exchange transactions that should govern the investment of funds under this chapter.

21-10-06. Funds under management of board - Accounts. The board is charged with the investment of the following funds:

- 1. State bonding fund.
- 2. Teachers' fund for retirement.
- 3. State fire and tornado fund.
- 4. Workforce safety and insurance fund.
- 5. National guard tuition trust fund.
- 6. Public employees retirement system.
- 7. Insurance regulatory trust fund.
- 8. State risk management fund.

9. Veterans' cemetery trust fund.
10. Health care trust fund.
11. Cultural endowment fund.

Separate accounting must be maintained for each of the above funds. When it is deemed advantageous, the moneys of the individual funds may be commingled for investment purposes.

The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board may charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

21-10-06.1. Board - Investment reports. The board shall annually prepare reports on the investment performance of each fund under its control. The reports must be uniform and must include:

1. A list of the advisory services managing investments for the board.
2. A list of investments at market value, compared to previous reporting period, of each fund managed by each advisory service.
3. Earnings, percentage earned, and change in market value of each fund's investments.
4. Comparison of the performance of each fund managed by each advisory service to other funds under the board's control and to generally accepted market indicators.

21-10-06.2. Investment costs. The amounts necessary to pay for investment costs, such as investment counseling fees, trustee fees, custodial fees, performance measurement fees, expenses associated with money manager searches, expenses associated with onsite audits and reviews of investment managers, and asset allocation expenses, incurred by the state investment board are hereby appropriated and must be paid directly out of the funds listed in section 21-10-06 by the fund incurring the expense.

21-10-07. Legal investments. The state investment board shall apply the prudent investor rule in investing for funds under its supervision. The "prudent investor rule" means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. The retirement funds belonging to the teachers' fund for retirement and the public employees retirement system must be invested exclusively for the benefit of their members and in accordance with the respective funds' investment goals and objectives.

21-10-08. Reserves - Percentage limitations. In order to meet claims and liabilities, reserves must be established and maintained in each of the funds in accordance with the investment policy and asset allocation established for each fund.

21-10-09. Personal profit prohibited - Penalty. No member, officer, agent, or employee of the state investment board may profit in any manner from transactions on behalf of the funds. Any person violating any of the provisions of this section is guilty of a class A misdemeanor.

21-10-10. State investment board fund - Cost of operation of board. Repealed by
S.L. 1989, ch. 667, § 13.