

2009 SENATE APPROPRIATIONS

SB 2249

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2249

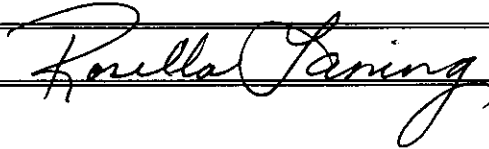
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 16, 2009

Recorder Job Number: 9599 & 9600 (Waiting for Senator Anderson)

Committee Clerk Signature



Minutes:

V. Chair Bowman: Called the committee hearing to order in regards to SB 2249 relating to the state bonding fund.

Jeff Bitz, Administrator, State Bonding Fund: See attachment #1 for testimony in support of the bill.

3.38 V. Chair Bowman: You said the bonding fund is low and you need an insurgence of cash of \$750,000, does the general fund always support this?

Jeff Bitz: Yes. The fund has charged a premium through 1953, and since then the fund hasn't charged a premium and has been able to sustain itself thru investments. If the fund dropped below the \$2 million, then we would have to assess a premium.

V. Chair Bowman: What is the fund now?

Jeff Bitz: The funds current balance is \$2,157,000.

V. Chair Bowman: Are you expecting this to drop below the \$2 million?

Jeff Bitz: Yes, we're expecting a negative return on the investments thru February which will probably drop it below.

Senator Warner: Do you have an estimate of all the administrative costs for assessing all subdivisions?

Jeff Bitz: We've never done it and don't have the mechanism to do it. We'd have to calculate a premium to all bond holders. I don't think the cost would be significant.

Senator Mathern: What has happened in the years when investments were positive? Did they accumulate in the fund or did some of them get used?

Jeff Bitz: That went into surplus to pay claims.

Senator Mathern: If we would have left that there, you wouldn't be here to request more.

Jeff Bitz: Yes.

Senator Fischer: (Inaudible question/comment) So we owe you?

Jeff Bitz: Yes.

V. Chair Bowman: Closed the hearing on SB 2249.

Senator Mathern: Do you know why this bill came in through legislators and not state bonding fund itself?

V. Chair Bowman: Maybe someone can answer that question.

Rebecca Ternes, Deputy Insurance Commissioner: We had a couple of bonding fund cleanup sessions this session and normally we have to explain what the fund is and how it works and we give reserve dollars and we'd have to go and assess all the subdivisions. It's a cleanup bill and would have come up in our appropriations bill most likely. We always report the fund balances of all of the special funds from the department.

V. Chair Bowman: Is this in the Governor's budget?

Rebecca Ternes: No it is not. The level significantly dropped significantly in September-October, which was much farther beyond when we put in our budget requests.

Senator Mathern: We took money out and now we are trying to put it back in.

Senator Fischer: I think you can answer how legislators got on it. Anderson is the prime on it and he was the auditor from Wahpeton and probably understood this well.

Senator Kilzer: It is strange it didn't come from fiscal review.

Discussion: A discussion occurred on what should be done and a suggestion was given to have Anderson come down with an amendment.

Job # 9600

V. Chair Bowman: We have a proposed amendment for this bill.

Senator Arden Anderson, District 25: Passed out proposed amendments. When I took this to legislative council and I asked that the amount be between 2 million and 3 million; rather than between 2 and 5 million. I didn't read the bill very well when I got it back. (Proceeds to explain the amendments.)

V. Chair Bowman: The original request was for \$750,000 and that would have brought the fund up to \$2,800,000 give or take. We know the market is still going down, so how much have we lost compared to proposal we just heard? Should we sell out before it goes to nothing?

Senator Anderson: I am just saying that that 1.4 million – hopefully we won't have to come back for any more than that.

V. Chair Grindberg: Is this something we're required to do? Is this a state or local responsibility?

Jeff Bitz: The bonding fund hasn't charged a premium since 1953. We basically have been able to sustain ourselves through investments until recently, and a transfer out in 2003, when it caused us to be on the verge of having to assess every bond holder within the bonding fund a premium and continue it until it gets to \$3 million.

V. Chair Grindberg: The 2003 transfer was made by whom?

Jeff Bitz: It was an OMB bill and it got passed by both houses. We were able to make two transfers. One in beginning and one at end of biennium so that the fund surpluses wouldn't drop below the threshold of \$2 million.

Senator Krauter: What's stopping us from changing the floor and ceiling of \$2 million?

Jeff Bitz: There is nothing.

Senator Krauter: What would be consequence if lowered the threshold to \$1.5 million?

Jeff Bitz: It would limit bonding fund's ability in terms of the amount of coverage we could provide each bond holder. The largest claim we ever received was \$275,000 in 2002.

V. Chair Bowman: Closed the hearing again.

V. Chair Bowman: They had money, they transferred out money. The investments lost money and now they want to replace the investments.

Senator Wardner: They need to have enough money in the fund to replace claims.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2249

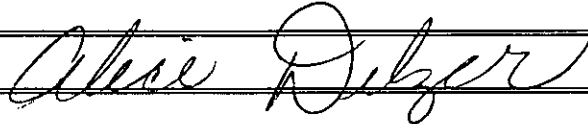
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-17-09

Recorder Job Number: 9633

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee back to order in regards to SB 2249 the State bonding fund.(11.16)

Senator Christmann moved a DO NOT PASS. Seconded by V. Chair Grindberg.

Discussion followed.

After further discussion (17.05) Chairman Holmberg stated a Do No Pass will kill the bill.

A ROLLCALL VOTE WAS TAKEN ON A DO NOT PASS RESULTING IN 8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING. SENATOR CHRISTMANN WILL CARRY THE BILL.(19.11)

Chairman Holmberg closed the hearing on SB 2249.

Date: 2/17/02
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2249

Senate _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Christmann Seconded By Grindberg

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	/		Senator Seymour		/
Senator Fischer	/		Senator Lindaas		/
Senator Wardier	/		Senator Robinson		/
Senator Kilzer	/		Senator Warner		/
V. Chair Bowman	/		Senator Krauter		/
Senator Christmann	/		Senator Mather		/
V. Chair Grindberg	/				
Chairman Holmberg	/				

Total Yes 8 No 6

Absent _____

Floor Assignment Christmann

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

DNP

REPORT OF STANDING COMMITTEE

SB 2249: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO NOT PASS (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2249

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SENATE BILL NO. 2249

Presented by: **Jeff Bitz**
 Administrator, State Bonding Fund
 North Dakota Insurance Department

Before: **Senate Appropriations Committee**
 Senator Ray Holmberg, Chairman

Date: **February 16, 2009**

TESTIMONY

Mr. Chairman and members of the committee:

My name is Jeff Bitz and I am the Administrator of the State Bonding Fund. I appear before you today in support of Senate Bill No. 2249 in regard to the appropriation transfer to the State Bonding Fund.

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

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

The State Bonding Fund serves 2,956 bondholders with a combined insured value of approximately \$527 million.

This year for the first time since 1953, the State Bonding Fund is faced with the possibility of assessing each bondholder a premium because the Fund's reserve balance (surplus) may drop below the statutory requirement of \$2 million. The decrease in surplus will not result from an increase in the frequency of claims, large claim payments or increased operating costs, but because of poor investment results due principally from the collapse of the world financial markets.

According to the Retirement and Investment Office (RIO), the Fund had a negative return on investments for the last quarter of 2008 (October-December) which reduced the Fund's balance as of December 31, 2008, to \$2,157,931. This compared with the Fund's balance as of September 30, 2008, of \$2,352,098. The financial markets continue to perform poorly through the first two months of 2009. Please see the attached reports on the Bonding Fund's Balance as of December 31, 2008, and a Bonding Fund Balance History Report from 1996 through June 30, 2008.

I respectfully request a "do pass" recommendation on the appropriation transfer from this committee on this bill.

I would be happy to try and answer any questions the committee members may have.

Thank you.

**ND INSURANCE DEPARTMENT
STATE BONDING
FUND BALANCE REPORT
AS OF DECEMBER 31, 2008**

ASSETS

Cash	\$	50,114	
Invested Cash		210,450	
Investments		2,019,371	
Accounts Receivable		69,033	
Dividend/Interest Receivable		28,152	
Due From Other Agencies		-	
		<hr/>	

Sub Total \$ 2,377,120

LIABILITIES

Accounts Payable	\$	74,719	
Accrued Payroll & Leave/Sick		3,470	
Loss Reserve for Claims Payable		141,000	
Due to Other Agencies		-	
		<hr/>	

Sub Total \$ 219,189

FUND BALANCE \$ 2,157,931

**ND INSURANCE DEPARTMENT
STATE BONDING FUND BALANCE HISTORY
FOR THE FISCAL YEAR ENDING JUNE 30TH**

<u>YEAR</u>	<u>RESERVE BALANCE</u>	<u>MINIMUM REQUIREMENT</u>	<u>VARIANCE FAV(UNFAV)</u>
2009 (EST)	\$ 1,900,000	\$ 2,000,000	\$ (100,000)
2008	\$ 2,511,902	\$ 2,000,000	\$ 511,902
2007	\$ 2,302,806	\$ 2,000,000	\$ 302,806
2006	\$ 2,693,009	\$ 2,000,000	\$ 693,009
2005	\$ 2,599,756	\$ 2,000,000	\$ 599,756
2004	\$ 3,752,803	\$ 2,000,000	\$ 1,752,803
2003	\$ 5,134,541	\$ 2,500,000	\$ 2,634,541
2002	\$ 4,801,704	\$ 2,500,000	\$ 2,301,704
2001	\$ 4,903,455	\$ 2,500,000	\$ 2,403,455
2000	\$ 4,926,544	\$ 2,500,000	\$ 2,426,544
1999	\$ 4,589,688	\$ 2,500,000	\$ 2,089,688
1998	\$ 4,388,079	\$ 2,500,000	\$ 1,888,079
1997	\$ 3,976,761	\$ 2,500,000	\$ 1,476,761
1996	\$ 3,777,630	\$ 2,500,000	\$ 1,277,630

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The State Bonding fund serves 2,956 bondholders with a combined insured value of approximately \$527 million. Established by the legislature in 1919, no premium has been charged for this coverage since 1953. Collection of premiums resumes if the fund reserve is depleted below \$2 million and continues until the reserve reaches \$3 million.

Currently, the fund has 4 open claims (see page 15) totaling \$141,000. Since 1999 the fund has received 57 claims and is attempting collection on 24 judgments, with a balance owed to the fund of \$1,379,140. An amount is paid to the bond holder by the fund after an audit has been done and the amount is determined by the court. The fund continues to renew judgments and make collection attempts from the debtor. The Insurance Department is seeking authority to collect amounts owed to the fund by off setting income tax refunds in HB1199.